10-1984

The Advocate

The Advocate, Fordham Law School

The ADVOCATE
FORDHAM UNIVERSITY SCHOOL OF LAW

VOL. 16. NO. 2 | © THE ADVOCATE | OCTOBER, 1984

A Visit With Fordham University's New President

The Reverend Joseph A. O'Hare, S.J.

By David Heires and Mark S. Kosak

Much has been said about the important phase of the law school's growth and development we are experiencing, in light of the building expansion and various other events. The electricity in the air has also reopened many old questions and created some new ones. What other changes will take place? How high will the law school's standards become? What specific actions will be appropriate in the aftermath of the Dedication of the new building wing? One person who will play a major part in providing the answers to these questions is the Reverend Joseph A. O'Hare, S.J., Fordham University's new President.

Father O'Hare has an immense array of talents to offer in service to Fordham. His extensive background in philosophy, journalism and theology will bode well for the roles he will be playing. As Editor-in-Chief of the Jesuit magazine *America* for the nine years prior to his appointment, he frequently voiced his opinions on religious, philosophical and public issues. Now, as he himself said in the Summer 1984 edition of *Fordham Magazine*, he has to be more concerned with making the university a forum for discussion and enlightenment of policies than taking positions himself. It would be difficult to find a more capable person for this function. In the meantime, Father O'Hare will also be helping to create and articulate the consensus with regard to the fundamental issues of concern to the university and the values which it should attempt to sustain.

Although his administrative experience is not as broad as his scholarly background, Father O'Hare promises to be a capable administrator. It might be further noted that he has a particular closeness to the Lincoln Center campus, having taught in the EXCEL program in the Lowenstein building from 1972 to 1975 and, of course, having worked out of the nearby offices of *America*.

Shortly before his inauguration on September 30, Father O'Hare spoke with us about his upcoming tenure and matters of interest to him. We tried to focus on issues which most concern the law school community.

On the Law School Generally

"The law school is one of the prides of the university... you can find its alumni all over - not just in law firms, but also in public service functions and in government. It's a very good law school, and perhaps at this stage of development it's on the brink of becoming a great one."

Father O'Hare said that one possible mode of action for further improving the law school's standing might be to lower somewhat the number of candidates accepted for admission. He is opposed, however, to any phasing out of the Evening Division: "I'd hate to see the Evening Division disappear...one thing Fordham has done historically in New York City has been to open avenues of opportunity to young men and women who are moving up the ladder."

Like most everyone else in the Fordham community, Father O'Hare is very excited about the upcoming Building Dedication. He added, "I want to see what the building looks like... Every time I've gone over to visit there have been partitions and I haven't really gotten a chance to see what the law school will look like."

On the Possibility of Housing at Lincoln Center

"We have property here at the Lincoln Center campus that is undeveloped which appreciates in value each year - it's kind of an endowment for the university. We'd like to con-

(Continued on page 15)

KATSORIS TO RECEIVE BENE MERENTI

By Mark S. Kosak

On Sunday, October 28, 1984 Professor Constantine N. Katsoris will receive the Bene Merenti medal for twenty-five years of loyal and devoted service to Fordham Law School. The presentation will be part of the University-wide Convocation to be held in the Pope Auditorium on the 144th Anniversary of the inauguration of Fordham University.

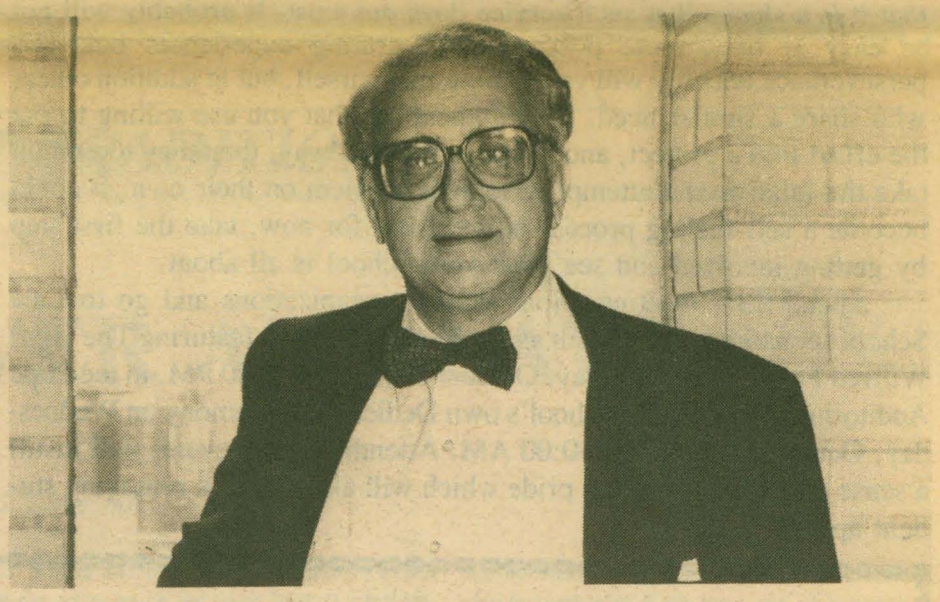
The University Convocation provides the appropriate academic and festive atmosphere for President Rev. O'Hare to laud the dedication of its faculties and to describe some of the challenges facing the entire Fordham community. For Rev. O'Hare this will be a very exciting day since this will be the first time he will lead such a ceremony, but for the sake of the University, hopefully it will be the first of many.

The Bene Merenti Award is given to those faculty members who have been with the University for a period of twenty-five years, and has a very interesting history unto itself. Reverend Aloysius J. Hogan, S.J. President of Fordham from 1930-36 had the gold "Bene Merenti" medal specifically struck for the face of it is a reproduction of the University Seal and on the reverse side the inscription "Bene merenti de Universitate Fordhamensi" and the name of recipient, with the years during which he or she served.

Professor Katsoris, or "Gus" as he is affectionately referred to, has had a very profound influence both on the law school andthe legal community. Professor Katsoris has never been a stranger to Fordham, not even during his early years. Upon graduation from Xavier High School in 1949, he attended Fordham University and obtained his B.S. degree in Accounting. He later went on to receive the highest academic average in each of his three years at Fordham Law School, and worked on the Law Review.

The firm of Cahill Gordon Reindel & Ohl was where he made his initial legal inroads after graduation. While working full time by day, he was able to attend N.Y.U. Graduate School of Law at night and upon completion received his LL.M. in Taxation and Corporate Law. These commitments did not, however, prevent him from becoming the President of the Fordham Law Review Association nor being a Legal Aid Volunteer. The later position yielded him commendations both from the Federal District Court and the U.S. Court of Appeals for his devo-

(Continued on page 15)



Constantine N. Katsoris

URBAN LAW CLINIC ESTABLISHED
(Students to Act as Attorneys for City of New York)

By Professor Harris

The faculty has approved the establishment of a new, radically different clinical program for Fordham Law students to begin in January 1985, to be known as "The Urban Law Clinic." This clinic will be offered in addition to the Clinical Placement Program.

The Urban Law Clinic will permit Fordham Law students, for the first time, to engage in actual representation of clients under strict supervision pursuant to New York State Court of Appeal's rules which authorize such student practice. Unlike the Clinical Placement Program in which students assist lawyers, the Urban Law Clinic would permit third and fourth year students to act as the attorney. They will perform the full range of lawyering tasks from perparing and planning the case to presenting it in the courtroom including oral argument and examination of witnesses.

(Continued on page 15)

INSIDE

EDITOR'S MESSAGE

Student apathy has been a problem at the Law School for quite some time. People talk about the problem, complain and even get into heated arguments over it. Discussions, however, are focused at the results of the problem rather than at the cause. Talking around an issue is not only unproductive but can be very frustrating and can even fuel further apathy.

To control the problem, attack the cause rather than ridiculing the result. You might ask yourself, at this point, what is the root cause of student apathy at the Law School. Unfortunately there is not one simple all-inclusive answer. But as a general proposition, it boils down to a students' preoccupation with his own concerns and inner world, with a resulting lack of feeling towards what is going on in their surrounding community. Students feel the emotion in themselves and see others exhibiting similar signs, but no one takes the initiative to bring about a solution.

Who then is primarily responsible for working towards the removal of student apathy? Is it the responsibility of the faculty, administration, alumni, fellow students or does the responsibility rest with you? In the final analysis I suggest that the burden rests with you. You and you alone are in the position to take the initiative to stop student apathy by taking a greater interest in your Law School.

To what extent does your responsibility require you to take action? To answer this question, you must pose an additional two: **1)** What do you want accomplished at the Law School? **2)** How quickly do you want to see results? If you recognize a problem and want results, define the parameters of it and work towards its resolution. Remember, you are primarily responsible for taking the first step.

When taking that first step, you do not have to necessarily work alone in obtaining results. Tell others about your ideas, convince them of the need to take action and attempt to enlist their assistance. This approach will not only alert others of the concern, but hopefully it will ease your burden in bringing about results.

For example, if you see the need for establishing a group devoted to giving advice on the type of courses which should be taken and at what point, given one's particular interest, then take action instead of saying that it is a shame that such service does not exist. It probably will not be easy at first, quite possibly a frustrating experience, but with perseverance not only will you be helping yourself, but in addition others who share a similar need. When others see that you are willing to put the effort into a project, and in fact make headway, then they too might take the iniative and attempt to solve a problem on their own. It could become a self-fueling process in time. But for now, take the first step by getting involved and see what your school is all about.

Attend SBA meetings, join student organizations and go to Law School sponsored events such as the Sonnett Lecture featuring The Hon, Wilfred Feinberg on Tuesday, October 23, 1984 at 8:00 PM. in the Pope Auditorium and the Law School's own Dedication Ceremony on Wednesday, October 24, 1984 at 10:00 AM. Attending these events will instill a sense of school spirit and pride which will also assist in removing student apathy.

The ADVOCATE
FORDHAM UNIVERSITY SCHOOL OF LAW

The Advocate is the official newspaper of Fordham University School of Law, published by the students of the school. Its goals are to enlighten and inform the Fordham Law School Community of news and activities concerning the school.

EDITOR-IN-CHIEF
MARK S. KOSAK

MANAGING EDITOR
DAVID HEIRES

BOARD OF EDITORS
GLENN BUSCH
PAUL CALAMARI
ROBERT FONTE
JOSEPH MAZZARULLI
GIULIANA MUSILLI
MAURA O'SULLIVAN

PERFORMING ARTS REPORTER
EILEEN R. POLLOCK

ASSOCIATE EDITORS
ROBERT ALTMAN
ALLEN HECHT

ADVERTISING EDITOR
STEVE KALEBIC

JOIN THE ADVOCATE

HELP YOURSELF

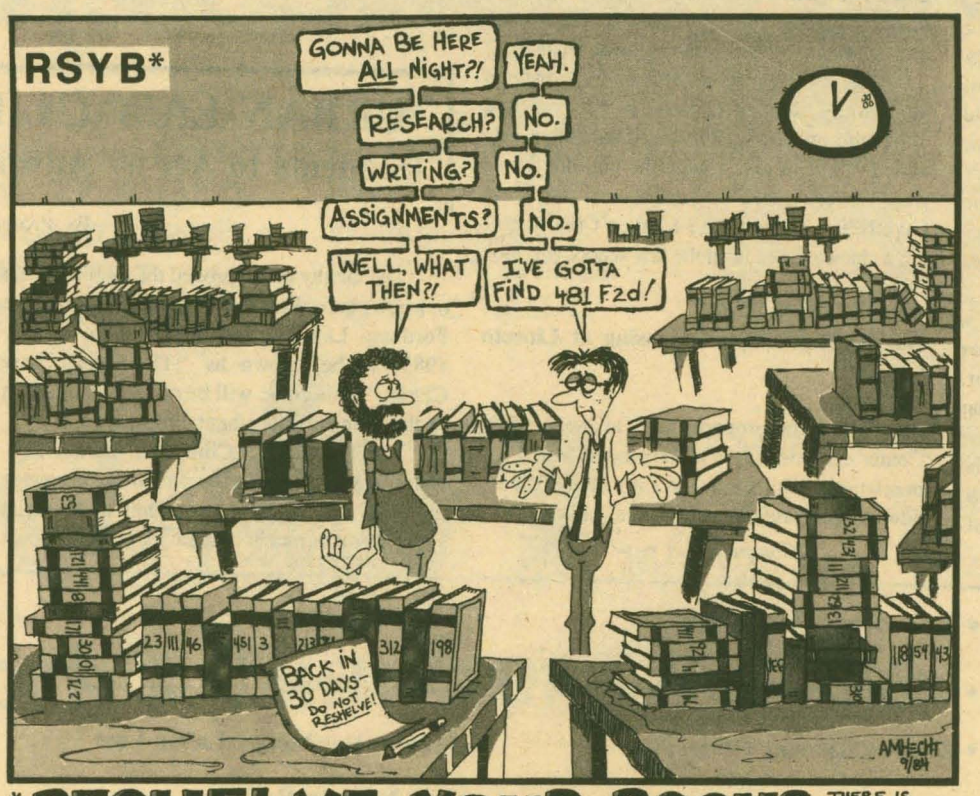
&

YOUR SCHOOL

NEW STAFF FOR THE SPRING TERM NOW BEING FORMED.

IF INTERESTED PLEASE

CALL MARK KOSAK at (212) 366-5027



*RESHELVE YOUR BOOKS THERE IS ABSOLUTELY NO REASON NOT TO.

FACULTY HEADNOTES

Trade Union Movement-Quo Vadis

By Associate Dean Joseph R. Crowley

The fact is that membership in trade unions declined not only in actual numbers but most markedly in relation to the size of the work force in the United States.

Union membership has dropped below 20 million for the first time since 1968. In fact it appears that total union membership is now approximately the same number as it was in 1955.

The percentage of union members in the current work force of over 100 million is below 18%.

This decline is striking, but the more interesting concern would be the underlying reason or reasons for the decline.

A reason advanced by the leadership of the trade union movement is that the present administration has created a climate that is not only unfavorable towards unions but is in fact anti-union. Unions claim that the discharge of the thousands of air traffic controllers in the Patco strike early on in the Reagan administration established an aura of repression with respect to union activities.

The unions contend further that the National Labor Relations Board is stacked with management attorneys who are constantly changing prior Board policies and rulings so as to whittle away the rights of workers and to provide more latitude to employers in their efforts to thwart unions organizational efforts and to stultify the collective bargaining process.

Admittedly, there are causes for concern in the administration of the National Labor Relations Act by the National Labor Relations Board and perhaps in the Act itself, but I do not believe that the Board or the Act is responsible in any significant way for the substantial decline in union membership. Long delays in the finalization of certification proceedings do produce a sense of frustration and disenchantment with the regulatory scheme: Further the not infrequent reversals in Board rulings, occasioned primarily by changes in membership of the Board and not by acquired experience, detracts from the concept of neutrality that should be the Board's proudest boast. The change by the Board that permits an employer to relocate a plant in mid-term of a contract to lessen labor costs is regarded by unions as a method of "union busting."

As noted previously while these concerns of the union do have some merit, there are reasons for the substantial decline in union membership. First, there have been economic declines in areas of union strength. For example, the exportation of jobs in the textile and apparel industries has resulted in the loss of hundred of thousands of jobs in the United States and obviously the concomitant reduction in union membership. The textile industry states that 10.3 billion square yards were imported in 1983 which is 1.8 billion more than in the prior year. This resulted in a loss of over 100,000 job opportunities.

The apparel industry has loss 323,000 jobs in the United States since 1973. The reason for the loss of these jobs is easily demonstrated by a wage comparison. The average hourly wage in the United States is $5.85, in Hong Kong $1.18, in South Korea $.63 and Taiwan $.57.

Similiarly, the reduction of jobs in the steel and other smoke stack industries due to foreign competition has contributed substantially to the loss in union membership. Membership in the Steelworkers Union is down 400,000 since 1981 and at present is holding at 740,000 dues paying members.

While there has been a decline in jobs in textile, steel and other industries, jobs have been created elsewhere in the nation as reflected in the ever increasing work force. It may be asked therefore why have unions not obtained members elsewhere in the work force?

One answer advanced by a labor leader is that the economic growth (i.e. new jobs) has been in areas such as high technology where unions traditionally have had difficulty in organizing. Persons holding such jobs do not regard themselves as members of the working class - higher wages and job security are derived by personal efforts and accomplishments rather than through unions. Granted that there are some among the unorganized who follow this **via vitae,** I do not believe that this explains the fact that 81 million persons in the work force are neither organized nor participating in union activities. This conclusion is buttressed when one considers the organization of public employees. In New York State the percentage of employees who are members of employee organizations is over 70% of the total work force in the public sector. This membership includes thousands of professional employees.

Rather I submit that the basic answer is that organized labor in the private sector has failed to reflect an image that would attract the unorganized and has failed to commit all of its resources to the organization of the unorganized.

Those of us in advanced years, recall that in the 1930's and early 1940's organized labor was a significant part of any movement seeking to deal with the social ills that then beset our nation - the poor - the disadvantaged - the homeless - the needy aged - the unemployed. Then the union movement avidly supported social legislation to provide needed remedies such as Social Security and Unemployment Compensation. Such activism attracted people to the trade union movement.

A further question must be raised and that is how active have unions been in efforts to organize the unorganized. My observation is that the response to a roll call on this issue would find a minority responding in the affirmative.

I hasten to point out, however, that there are outstanding persons in the labor movement who are responding to social needs and who are actively organizing. Such a person is John Sweeney, President of the International Service Employees International Union. He is not alone though few will match him.

The lesson once mastered by Samuel Gompers and understood by his successors George Meany, Lane Kirkland and Thomas Donahue is that workers join unions because their dignity as human beings has been offended or is threatened.

To succeed in their efforts to increase the percentage of persons in the work force, the union movement must demonstrate that it is concerned about the dignity and welfare of all who earn their bread by the sweat of their brow or who would like the opportunity to do so.

IN THE JESUIT TRADITION

VIOLENCE, POWER AND LAW

By Rev. Edward G. Zogby, S.J.

Once, during the pastoral years of my noviceship at St. Andrew-on-Hudson in Poughkeepsie (now the Culinary Institute of America), I took a walk on a clear, wonderfully cold winter day through the woods, up past the small reservoir that supplied our drinking water; then deeper into old farm tracts whose stone boundary fences still gave definition to the indifferent land. Along one of these stone walls ran the solitary tracks of one animal. From my height I could see another set of tracks on the opposite side of the wall. Both ran in the same direction. I followed them to where they met each other at the broken end of that wall. There, fresh blood stained the white snow; beyond that only one set of tracks continued on. A winter haiku.

I recall a very sad feeling came over me and from then on the woods, and St. Andrews and the world were never quite the same again. We live in a world, within worlds of violence, and in that space our innocence is trained for charity and compassion. In the Judeo-Christian scriptures we are told that in God justice and mercy meet. In nature they do not. In human nature they can be brought to live side by side, but with much effort. Acts of terrorism, with all their sudden destruction of peaceful days and nights, fill us with a new kind of dread; a new way of life. But can we live without every kind of violence or show of power?

In my articles last year I wrote about another, more civilized kind of violence and power, the opposite of coercion and force; I wrote about consensus and the public argument, and about living integrally in a world of philosophical and religious pluralism.

Martin Heidegger, in **Being and Time,** reminds us of that other kind of violence, a kind which grounds human beings in their spheres of living discourse; getting at what we humans should get at in our inter-connected lives. "That kind of getting at it constantly has the character of doing violence whether to the claims of everyday interpretation or to its complacency and its tranquilized obviousness." He is saying that just to be here, to be present each day, is to have a certain commitment to doing violence to our own everyday interpretations and to our own positions about the meaning of life; to our own complacency towards that everyday interpretation, and to our own commitment to tranquilized obviousness. Gandhi and Martin Luther King, Mother Theresa and Father Bruce Ritter are people who broke that commitment to complacency and tranquilized obviousness by a commitment to make a difference that is not stopped by their own human frailty.

Of power, Charles Wright, in a speech called "Power and the Law," said, "Power means to me pretty much the same thing as freedom. Power is the thing that everybody wants the most they can possibly have of." In his view, seeing is power, sex appeal is power, the ability to make yourself heard by your Congressperson is power; anything that goes out of you and goes out into the world is power. And in addition to that is the ability to be open, to appreciate, to give and receive love, to respond freely to others, to enjoy music and literature - all of that is power. By power I mean human faculties, and in a large sense, individual intelligence, exercised to the broadest possible degree.

If law school never includes in its training a mastery in deeper, almost philosophical listening then the practice of law is mechanical and the lawyer a flatlander - the variations will come from social shifts rather than from the center of one's own being. Heidegger said of listening, "Let me give a little hint on how to listen. The point is not to listen to a series of propositions but rather to follow the movement of the showing." I can only guess that the "movement of the showing" of law studies would show up in a love for the law as the law of the land, as the guarantor of freedom and rights, as the firm rock of a pluralistic society. The "movement of showing" is the soul of society, it is that which produces statesmen and exposes the barbarian. John Courtney Murray, S.J. said, "Today the barbarian is the man who makes open and explicit rejection of the traditional role of reason and logic in human affairs. He is the man who reduces all spirtual and moral questions to the test of practical results or to an analysis of language or to decision in terms of individual subjective feeling."

These themes came together for me the other day when I was present at Abraham Mintz' funeral and heard his rabbi narrate his life story - how he fled from a Nazi-troubled Europe, how he came here and worked in the garment district, how he used his money to support homes for the elderly, how he would give money to the synagogue to be given to people who were needy. Indeed, the rabbi said Abraham was a true Jew with a love for mankind. I was quite moved by the eulogy, especially when the rabbi said, "People learned Torah just from being with Abe." Yes, that is what shows up as a result of the violence and power that comes from meditating on the law and the Law. If indeed the word of God makes itself present throughout the universe, as Jews proclaim God as King of the Universe on Rosh Hashanah, then it can be also present in studies in the law school. It should come as no surprise that a change of heart (violence to self) can occur even in something so mundane.

ON POLITICS AND RELIGION:

It is an old and familiar saying for cocktail parties and the like: "Don't discuss religion and politics." If anybody doesn't follow the advice, he usually finds himself in a long and loud argument which he neither wins nor loses. Today, we find our politicians (and our clergy) not only discussing religion and politics, but discussing the topics together. Led by Governor Cuomo, arguments and discussions have arisen between Cuomo and Archbishop O'Connor, Geraldine Ferraro and the press, Paul Laxalt and the Democratic Party, Mondale and Reagan, and now countless others, including many "liberals" and the fundamentalist Churches. Even Pope John Paul II recently entered the fray calling for public financing of religious schools. All this discussion centers around two basic questions: should there by a mix between religion and politics; and is there a wall between Church and State?

It is difficult to say that religion and politics do not mix. All modern societies have used some sort of religious philosophy to form the basis from which to govern their society. Our country concedes this. Our pledge of allegiance says we are "one nation under God." Our coins say, "In God we trust." This nation does not try to deny the existence of God. Indeed, the people's belief in God has spawned some of the most spectacular reform movements of our times. The Free Slavery, Civil Rights and Peace Movements all had an undeniably religious tint. Most people associate these movements with the liberal tradition in America. Undoubtedly liberals and religious leaders collaborated during those times to achieve their political and religious objectives. Nothing was wrong or sinful about it.

Today, many conservative politicians and religious fundamentalists try to do the same things that politicans and religious leaders did in yesteryear: change the laws of society to reflect their own viewpoint. To see many "liberals" become upset over the mix of religion and politics is surprising and possibly hypocritical. Liberals argue that imposing one's religious beliefs upon society is wrong. This argument belies our country's religious roots and its history. From the start, this country imposed a Judeo-Christian ethic upon its government. This country naturally did so because most of its citizens were Christians. Is there any element of the Muslim or Taoist ethic in this country? I see no Mullahs running this state! Additionally, many reform movements that liberals would champion had a strong element of religious philosophy. Liberals retort that these movements produced the "right" result. I would agree, but I must acknowledge that history is written by the winners. If society outlawed abortion today, maybe in 100 years society will view prochoicers with the same disdain as slave owners. Thus, one must agree that religion and politics have mixed and do mix. Railing by liberals against this mix just masks their real fear: that because of fundamentalist effectiveness soceity will reject the liberal agenda for the conservative agneda.

Upon the concession that religion and politics mix, I wish to turn to my seond question: is there a wall between Church and State? My feeling is yes. A difference exists between the meshing of political and religious philosophies and the alliance of a religious organization and a political party or government. However, while a wall exists it is not a wall which cannot be transcended once in a while. A Church has a Constitutional right to speak out on an issue. If Archbishop O'Connor wants to go up to the pulpit and speak out against the sin of abortion every Sunday he can.

Not only does he have that right, but the combination of his religious position and his Catholic teaching imposes an obligation upon him to do so. When Archbishop O'Connor begins not to talk about the evils of abortion is the day I begin to wonder about his abilities as an Archbishop. However, even the Archbishop must be careful. While he can always speak out, his words, if they enter the political sphere, may risk his Church's tax exempt status. While this may never occur it is a right the State presently has and a risk the Church must recognize.

Churches focus on three major issues when fighting for their beliefs in the political arena: abortion, school prayer and religious school financing. About the last, the Supreme Court has said that tuition tax credits are Constitutional and now the legislature must debate about their usage. However, Pope John Paul II's call for state financing of religious schools raises too many questions for our pluralistic society. Do you want to finance a school for Reverend Sun Myung Moon? How about Ayatollah Khomeini? Bob Jones? A Satanic cult? Finance one and you really must finance all. Sorry, I'll pass.

What about school prayer? School prayer is also sticky. Whose prayer? Why do we need school prayer? Why not home prayer? I dare say many of the people who advocate prayer in public school don't pray at home. Is it the state's responsibility to see that a child gets his daily dose of prayer? No. Why not a moment of silence? Because then you've conceded it is a substitute for prayer, and meant to do the same thing. If a student breaks the moment of silence why should he be admonished? Because he interrupted another's communication with God! Then you have the intimidation factor that the denial of school prayer was meant to fight. Besides, children daydream enough in class; they don't need another moment for the same.

Abortion remains the stickiest and most emotional problem. You do not have to be religious to believe a fetus is a human life and should have Constitutional protection. This is a logical argument; however, the Supreme Court in a sometimes equally logical argument says the opposite. Society may in its balancing of rights conclude that abortion is wrong. Both sides should argue their point. Society will come to a conclusion through the amending or non-amending of the Constitution. However, it is immature to view the outlawing of abortion as tyranny and the advocation of choice as evil.

Society is trying to deal with a complex issue, but somehow the whole thing has become a simplistic morality play. The question is not whether the Catholic Church believes abortion is wrong and therefore it is wrong and should be outlawed. The question is whether abortion is wrong and thus should be outlawed. Being against abortion only because a Church says it's wrong and therefore should be outlawed (as Cuomo says) a Jew to say that working on Saturday is wrong and therefore it should be outlawed. Policy should be decided by individuals' choices forming a political consensus, not by what our religious leaders make up as dogma. If everyone must follow his or her religious leaders all the time, we might as well amend the Constitution so only religious leaders can be our elected officials. Then, they could argue over which religious doctrine this country will follow. I, as Catholic, am not ready to convert to any other set of religious beliefs.

While many Churches get involved in politics, the politics-religious dance is not always led by the religious partner. Politicians from both parties (often Southern Democrats and Republicans) like to lead. Paul Laxalt's letter to fundamentalist ministers ruging voter registration to reelect God's ticket and Jimmy Carter's wooing of ministers at the Southern Christian Leadership Conference before the 1980 election are just two examples. Taking an invitation from Moral Majoritarians, the Republican Party has gained influence over fundamentalist Churches' ideology over the past decade. (Jimmy Carter tried to gain influence over them by stressing compassion for the poor over other conservative ideas. This failed because it did not coincide with the traditional Southern political agenda.) This Republican influence has some Democrats scared because of the voting power of the religious right. However, some Republican strategists worry that a marriage with the religious right will drive away moderate voters who would feel the Republicans had become the Christian Republicans (see recent William Safire articles for more on this).

Some Democrats see the Republicans embrace of the religious right as a Godsend, feeling that both will hang themselves with their own rope. These Democrats believe that the religious right's moral agenda is impossible to implement and will lead to petty internal squabbles. These Democrats also believe that moderate Americans will eventually turn off to the fire and brimstone. However, in the mean time, the Democratic Party's fight for so-called separatism runs the risk of becoming too strident a response to the Republican-religious right alliance. A call for strict separation is not only asking for the impossible, it is also flirting with disaster in the 1984 election.

The dangers of a merger between Church and State go far beyond the political consequences of the 1984 election. For a Church, the dangers include a loss of membership. People are political as well as religious beings. For some people religious doctrine has less of an effect on their life than political beliefs. A Church which begins to advocate a host of political positions as part of its moral doctrine will lose members who, while willing to follow the Church's traditional religious beliefs, are not ready to follow what has usually been political opinion. The nuclear freeze is not a traditional religious issue. It is a question of political and military strategy. Being for or against the nuclear freeze has become a religious issue for some Churches. By taking a stand on such emotional political issues Churches risk offending membership to the point where members may walk out on their Church. What then developes is one of the following.

First, there could be a population of religiousless people. Second, Churches may realign along political boundaries. Third, Churches may become so factionalized that hundreds of new "Reformations" may take place, again along political boundaries. (Of course, all three might occur.) Such fragmentation has the potential to destroy the economies of scale which many Churches now have and which allows Churches to do the many charitable works that would otherwise be impossible.

A second consequence of a merger between Church and State would be the problem of merging Bible and Constitution. We see slaves in the Bible all the time; why not legalize slavery once again? Just what is the Biblical interpretation for capital punishment? How would an interpretation of the due process clause or equal protection laws effect the Jewish law of "get?" Switching things around, will we replace Papal edicts with democratic decisions? If we don't like our rabbi can we impeach or take him to court? Neither the Church nor the State can handle these issues for the other side.

Finally, the Churches, if they become involved in politics, have to face their own internal fractionalization. While a group of Catholic bishops seeks to write a Pastoral letter on economics, a group of Catholic laypeople are writing a response. Different theological schools interpret the Bible differently. Whose interpretation is used? How is it chosen? How do we know it's right?

Political parties face many of the same problems when they ally with Churches. If the Democrats choose Catholices, and Jews, they can say good-bye to the Methodists and Baptists and so on. There are so many Churches for each of the political parties to choose they are bound to alienate a majority of the American population. This alliance of Church and State will lead to a new party for each religion. This would spell the end of our successful two party system - maybe not overnight, but over time. What results is the aforementioned Congress of religious leaders, battling out to see whose religion wins.

Aware of the dangers of a mixture of Church and State and aware of the natural mixture of religion and politics, we as political and religious beings are faced with the difficult question of just how high we build the wall between Church and State. For the Churches, we first must recognize their right to speak out. The Constitution grants and guarantees it. Additionally, the Churches' own moralities demand it. However, a Church's right to speak does not give it carte blanche. Religious leaders are preachers, not commanders, when it comes to political and religious matters. When Archbishop O'connor says, "I don't know how any Catholic in good conscience can vote for anyone who supports abortion," he is jumping over the wall when he should not. His statement by giving such a simple litmus test is a political endorsement even if he does not think so. His position as Archbishop of New York makes it a religious command (and if not it is VERY close). Such statements threaten to knock a few bricks off the carefully constructed wall between Church and State. Government can meet such actions by religious leaders through the revocation of tax exemption status.

Governments so far have not chosen this method for obvious political reasons (do you think any President wants to be the one to revoke the Catholic Church's tax exempt status?). I do not wish to make it seem like I'm picking on abortion. I believe the Pope's statements against capitalism are also other types of statements which are offensive to the wall between Church and State. Churches can preach. Churches can lecture. Churches can try to change their members views to reflect their own. Churches should not address political issues on a black and white, good and evil basis, and Churches should not get intrieately involved in the political processes for their good and the State's good.

Politicians also must be aware of not mixing Church and State. Politicians are supposed to uphold the law and should do so. If any law is against their religious dictates they may try to form a political consensus and change the law. If changing the law infringes upon a Constitutional right, then politicians must go through the extra requirement of forming the political consensus needed to amend the Constitution. This is the route our country has followed for almost two hundred years. There is no reason to believe it will fail us now.

So basically we have come back to rely on the Constitution and laws our country already has in place. Our Founding Fathers were pretty smart. If only our present leaders could imitate them, no one would have to write such long articles.

Robert Altman

(The author admits to being a liberal, a Catholic and a leader of the Democratic Law Student Association.)

ALUMNI VIEW POINT

Insurance Product Revolution Revisited

By: Howard L. Rosen FSA, MAAA
Frank Buck FIA, ASA, MAAA
Coopers & Lybrand

Edited By: Michael G. Heitz
Coopers & Lybrand

The flood of new and innovative life insurance products which began as a trickle in the early 1970's with the advent of variable life insurance, continued, in a torrent throughout the decade with such products as indeterminate premium life, universal life and irreplaceable life. This same revolutionary trend shaking the very foundations of the life insurance industry is still evident today with back-end loads replacing more traditional front-end loaded policies. During this period at least one long established product, namely the endowment, has gone the way of the dinosaur; others such as reentry term and aggressively priced graded premium whole life have come and gone or are on the way out. It may be instructive to reexamine these products, describe what makes them different, why they came to be, and what has happened to them since their introduction.

First came variable life, which had its introduction in 1962 in the U.K. It appeared in the early seventies in the United States. The unusual feature of this product was that for the first time, changes in policy values (cash value and death benefit) were linked to the performance of an underlying asset portfolio. The policy values increase and decrease subject to an initial yield assumption, the performance of the assert portfolio, and internal limits such as a floor on the death benefit. The product relieves the insurer of most of the burden of the investment risk by passing it on to the policyholder. Additionally, the product is different because it and the agents/brokers selling it are regulated by the SEC. Also the assets supporting these products must be held in a separate account. After a period of up and down sales, variable life is increasing in popularity to the point now where 11 companies currently sell the product as compared to 4 only two years ago. The increase in sales may be partly attributed to a design change which allows policy values to be switched between investment funds and to the introduction of a money market fund, which takes advantage of short term interest rates and cannot go down in price. Also, the Tax Reform Act of 1984 has given the earnings from variable life the same tax status as annuity Separate Accounts, a move which will favorably encourage even more companies to enter this market.

After a few years of relatively little non-traditional product development, a life insurance product revolution got into full gear with the introduction of universal life products in 1979. As interest rates rose in the late 1970's the insurance buying public became more cognizant of the fact that their insurance products were not earning competitive yields on the investment element of their premiums. It was not uncommon in these years for traditional products to yield 3%-5% on the investment element when secular investment returns were two to three times that level. The investment dollar was being drained out of the insurance industry and into other investment media; universal life was the insurance industry's answer to this loss of the insurance savings dollar.

The product was a radical departure from fixed premium, fixed cash value premanent insurance. It offered the policyholder the ability to pay his premiums on a flexible, nonscheduled basis. Premiums accumulate in a fund, first as an initial guaranteed level, and later at minimum levels supplemented by competitive excess interest cardits. The first generation of products had front-end expense loads. That is, gross premiums paid were reduced by fixed expense loads before being added to the fund. Later generation products shifted to a rear-end load basis in which every dollar of premium went into the accumulation fund. Expenses were recovered from surrender charges - reductions in cash values paid - and from other sources such as the difference between interest earned and interest credited.

Newer products have been introduced with all of the basis features of universal life except that the premiums are fixed. This offers a more predictable pattern of cash flow to the insurance company. Irreplaceable life is a member of this newer family of fixed premium products. The earlier policies featured low premiums which could be reviewed periodically by the company. Later designs incorporated much large premiums and were sold with a vanishing premium concept. Irreplaceable life was offered first on a front-end load basis, and later on a rear-end load basis.

All of these innovative products have mortality charges, usually on a reasonably competitive basis, levied against their fund accumulations. These interest sensitive products were initially sold as more of an investment vehicle than a life insurance product. Abuses resulted when companies sold products with a large investment element and very little death protection. The goal was to regain lost insurance savings dollars while at the same time offering competitive tax deferred or even tax free yields. Some of the new sales techniques that were developed, such as selling the product as an investment contract with an insurance element instead of as an insurance contract with an investment element, however, were ill-conceived.

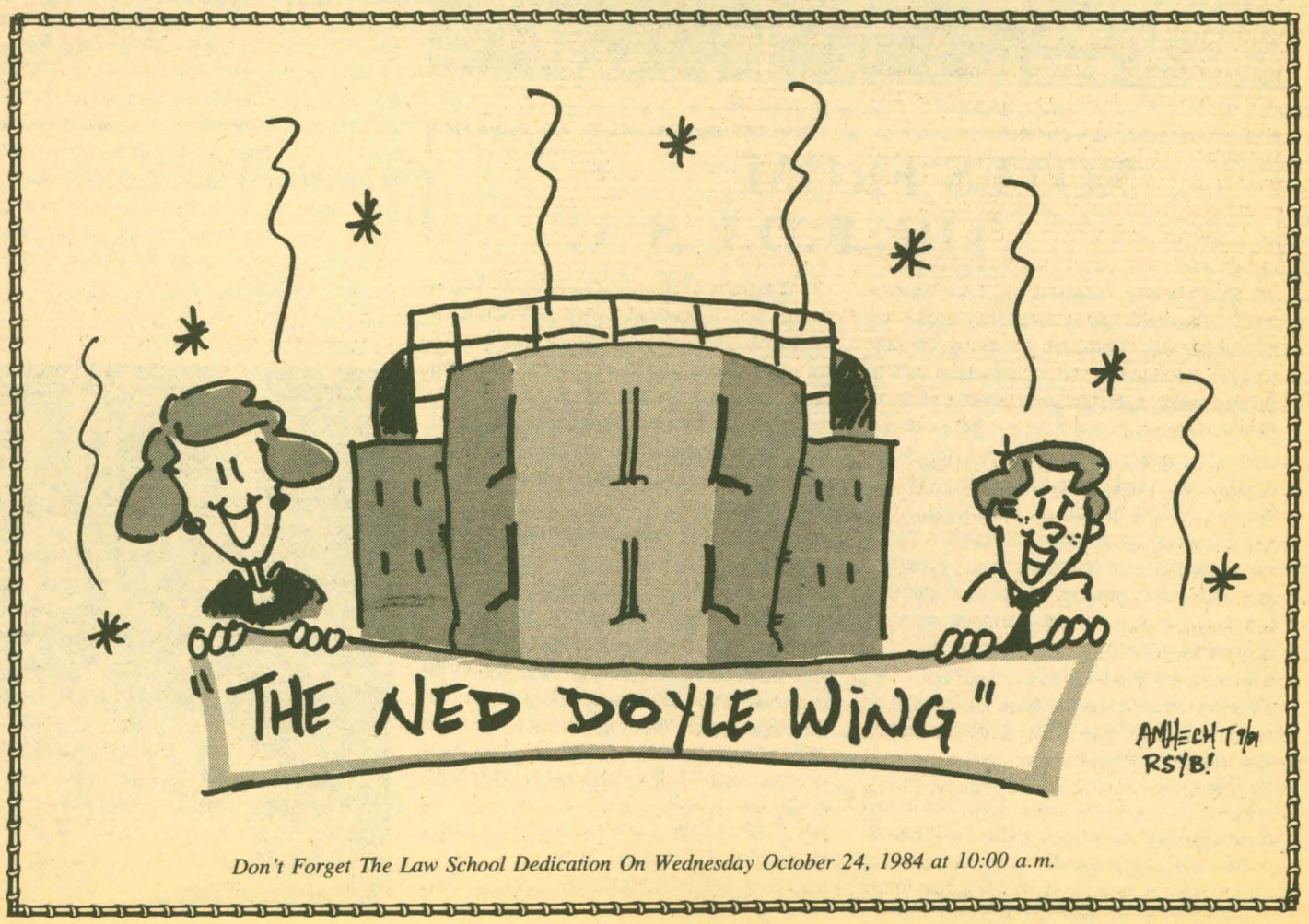
Eventually the IRS took notice: questions arose as to the status of universal life as a life insurance product and the protection of its death benefit and inside investment buildup under Section 101 of the IRS Code. Beginning with TEFRA, in 1982, there was a clear attempt by the IRS to limit the investment element of life insurance contracts, particularly universal life, by means of the guideline premium and cash value tests. The Tax Reform Act of 1984 continued to limit the investment element of insurance policies. Even with all of the regulations and scrutiny, the products are expected to continue to thrive in the future and probably become the cornerstones of the life insurance industry. In fact, in 1983 universal life sales made up 18.9% of whole life sales (by volume). This was an increase of 64% in market share over the previous year.

At the same time insurance companies were developing these "interest sensitive" products to compete with other investment media, they also found themselves in competition with each other in the sale and maintenance of products. This was particularly evident in the term insurance marketplace. The steady decline in mortality which had lasted for almost 30 years, continued throughout the 1970's. Companies found themselves putting competitive term products on the street only to have them replaced a year or two later, frequently by the original agent. In response to the cutthroat competition which became commonplace in the early 1980's, several new products were developed. The family of indeterminate premium polices is a perfect example of the way the insurance industry responded to the competition problem among its own members. The benefit structure of these products is the same as that of other products; only the premium structure differs. These products contain maximum guaranteed premium rates within the policy forms. Initial rates are usually well below these maxima, which are set at a level which eliminates the need for statutory deficiency reserves. However, the issuing companies reserve the right to change those premiums (up or down) depending upon their perception as to future experience. The premiums are not guaranteed, there are thus indeterminate as to ultimate level. The primary reason for the existence of these products was to reduce the chance that polices would be lapsed and replaces in another company (or the same company) by polices with lower premiums. Indeterminate premium products particularly term, are still widely sold. Questions as to the status of the difference between the actual premiums and the guaranteed maxima, the so-called "phantom" premiums, have been settled in recent years: they are considered dividends.

Reduction of the risk of replacement was also the driving force behind the development of "reentry" products, both permanent and term. These are products which provide that at fixed intervals or a fixed number of durations the insured may choose to be reunderwritten in order to "reenter" the insured population with lower premiums. Although they provided a popular consumer gimmick, reentry products are not as popular with companies now as when originally introduced several years ago. The reason is that the reunderwriting process is very expensive. In a time when insurance comapny operating expenses have been rapidly escalating, the products simply became too costly to maintain.

The last product to be mentioned, graded premium whole life, has been in the marketplace for quite some time. However, it has recently come into prominence because of substantial reductions in premium rates charged by its more aggressive marketers. The product is structured as level benefit whole life insurance with premiums which increase annually for between ten and twenty years. Thereafter premiums are level. The product was initially designed to meet the needs of people who should consider large amounts of life insurance, such as young professionals with children, but who can't afford the initial level of expense. As their income grows, the premiums, which are initially low, grow and reach a plateau when policyholders are better able to afford the out of pocket cost. In recent years, though, the product had been sold at extremely low initial rates because of certain tax advantages available to issuing companies. They were selling the product at a pretax loss, only to make their profit by means of Section 818(c) of the IRS which allowed the recalculation of actuarial reserves for tax purposes pursuant to a formula. The Tax Reform Act of 1984 repealed 818(c) and, thus, did away with this advantage. Since the early legislative proposals which included the elimination of this benefit were made public, premium rates for grade premium whole life have risen substantially.

This has been no means an exhaustive review of the newer products which have hit the marketplace in the last decade. The parade continues even as you read: several companies have filed variable universal life products and are awaiting SEC approval. Each new product meets another need, another challenge. It is clear that whenever anything, whether state regulation, the federal government, or another financial institution threatens the position of the life insurance industry, it answers with new and innovative products. To paraphrase an old axiom, insurance industry necessity is the mother of insurance product invention.



Don't Forget The Law School Dedication On Wednesday October 24, 1984 at 10:00 a.m.

FLS NEWS IN REVIEW

A DAY FOR THE DEAN

By Mark S. Kosak

Dean John D. Feerick has his day on Saturday, September 29, 1984. Fordham Law School celebrated Dean's Day with all the pomp and circumstance that is due a homecoming celebration. The 1984 Dean's Day - Homecoming Committee was led by Michael K. Stanton '59 National Chairman and also included the following distinguished alumns:
Francis J. Sweeney '79
Henry R. White '76
Christine Maiocchi '74
Edward Speiran '74
John Kenny '69
Thomas Puccio '69
Robert P. Whelen '46
Rhonda Kirshner '84
Ernest Hammer '59
Susan Glover '79
John R. Vaughan '64
John J. Leo '81
John Sills '69
Michael Twomey '74
William Glass '83
Timothy J. Brosnan '84
Dennis Casey '69
Georgene Vairo '79
Richard Callanan '69
Alice O'Rourke '79
John Klarl '79
B. J. Santangelo '74
Edward J. Guardaro '45
A. Daniel Fusaro '33

The day's festivities began at 10:30 A.M. in the Pope Auditorium where alums registered and had that eye-opening cup of coffee. The rest of the morning was devoted to attendance at one of three very practical seminars which dealt with: **1.** How To Plan Your Personal Finances; **2.** How To Market Your Law Practice or; **3.** Changing Jobs and Changing Careers. Each of the programs were designed to teach participants how to cope with and solve problems that practicing attornies might encounter.

After a buffet luncheon in the Lowenstein's faculty lounge, two of Fordham Law School's most distinguished alumni were presented with the Fordham Law School Award for their exemplary service to their alma mater and their community. The two highly respected recipients were Honarable John M. Cannell '33 and Honorable Edward R. Neaher '43.

Hon John M. Cannella is presently Senior Judge for the Southern District of New York. Judge Cannella was appointed to this position on July 3, 1963 and began duty on July 12, 1963. Judge Cannella, a life long friend of Fordham, began his affiliation in 1930 upon his receipt of a B.S. from Fordham University and maintained his ties by receiving an LL.B. degree from the Law School in 1933.

Judge Cannella has had an active career. In 1940-42, he was Assistant United States Attorney for the Southern District. Following this, he served in the United States Coast Guard from 1942-45. Upon completion of his military service, he entered Civil Service as Commissioner of Water Gas and Electricity from 1946-48 and as Commissioner of the License Department of the City of New York from 1948-49. Judge Cannella stepped up to the bench and served as Associate Justice of the Court of Special Sessions of the City of New York from 1949-63 in the City Court, New York County, Court of General Sessions, Criminal Court and the City Court, Bronx County.

Honorable John M. Cannell

It should also be noted that Judge Cannella is also a member of the Federal Bar Association, Catholic Lawyers Guild and the Columbian Lawyers Association.

Honorable Edward R. Neaher, the second and equally deserving recipient of the Fordham Law School Award is presently a United States District Judge for the Eastern District of New York. Judge Neaher was appointed on July 23, 1971 and began service on August 4, 1971. Judge Neaher attended the University of Notre Dame and received an A.B. in 1937 and then in 1943 received an LL.B. degree from Fordham University School of Law.

Judge Neaher has been in a variety of activities devoting his time to the practice of law, literary posts, judicial positions, as well as, civic and fraternal associations. He began his legal career as a special agent of the Federal Bureau of Investigation from 1943-45. From 1945-69 he was engaged in the practice of law (both in civil and administrative litigation) as an associate and later partner of the firm Chadbourne Parke, Whiteside and Wolff located in New York City. Prior to his appointment to the bench in the Southern District, he served as United States Attorney for the Eastern District of New York from 1969-71.

Judge Neaher also served the bar as a member of the board of directors of the New York Legal Aid Society from 1967-69. He is also presently a member of the Practicing Law Institute, contributing author and faculty member of the Practicing Law Association, a member of the Association of the Bar of the City of New York (chairman of the Committee on Federal Courts; 1966-69), the American Bar Association, American Judicature Society, Federal Bar Association, New York State Bar Association and the Brooklyn Bar Association. In addition, hitting very close to home, in the Fordham Law Community, Judge Neaher is a director of the Fordham Law Alumni Association.

After an inspiring awards ceremony an interesting debate on the Simpson-Mazzoli Immigration Bill was presented. The debate was moderated by Associate Dean Joseph R. Crowley '48 and focussed on the issues of illegal aliens and the consequences of our present and proposed national policies. The talented debates were Joseph Sena from Taffect Colwin & Gellman and Arthur Helton who is the Director of the Political Assylum Project.

The final event was a cocktail reception where fellow allums discussed Fordham days past, present and future. Allums could not believe how the campus had changed and especially noted the bright future of the Law School, given the impressive facilities which are near completion.

Honorable Edward R. Neaher

NOTES FROM THE F.D.L.S.A.

The Fordham Democratic Law Student Association held its orientation meeting on September 19, 1984 and garnered 26 new members. Added to the 25 members still in good standing from last year, the F.D.L.S.A. membership count stands at 51. Many of our members signed up to campaign for Mondale/Ferraro, and I am sure their work has become evident by now.

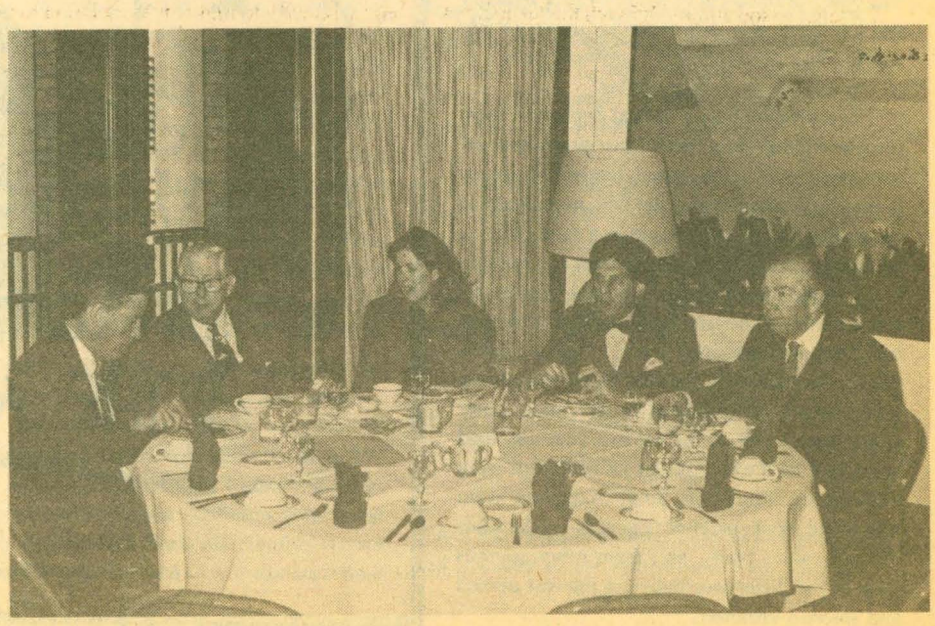
The F.D.L.S.A. will continue to have its successful speakers program as the highlight or its events this coming school year. Hopefully, the F.D.L.S.A. will sponsor seminars on "Street Law" and "State Government." Additionally, we will take polls and surveys of the student body. There will surely be other events as well when our bright new membership begins to exert its influence.

The F.D.L.S.A. will partake in a debate with the "rejuvenated." R.L.S.A. Details still have to be worked out over format. All students are invited as this should be an event for the entire student body and not just the future "politicos" in the political organizations.

If there is no issue of *The Advocate* before the election, I encourage every student to vote. Realistically in a race as large as the Presidential election one vote does not matter, but in your local elections a handful of votes can make the difference. Having recently managed a campaign for Democratic State Committee and losing by 25 votes out of 4,600, I can tell you this from experience.

Finally, if the Dedication takes place on schedule I encourage every F.D.L.S.A. member to attend. On a day when we will all put politics aside and celebrate the fantastic achievements of our law school, every student should take pride in our law school and attend the ceremonies. The F.D.L.S.A. would like to say thank you to the Administration for a job well done and to the Alumni for their most generous support. We are proud to be students of this law school.

FIRST SPEAKER: CONGRESSMAN JAMES SCHEUER, October 16, 1984
5:00 P.M. IN THE MOOT COURT ROOM.



FLS NEWS IN REVIEW

BE AN INTERN

By Professor Harris

Second, third and fourth year students are invited to apply for the Spring Clinical Placement Program by October 12, 1984. The Clinical Placement List, Clinical memorandum and Clinical Application are available in the Registrar's office. Application forms, resumes and special materials requested by certain placements, specified on the Clinical Placement List, should be submitted to Professor Harris in Room 145 by October 10th.

Increasing competition for clinical placements and early selection determinations by some judges have required the early application deadline of October 10th. Students can apply after that deadline but may miss the opportunity to secure the most competitive placements.

Students should select five placement preferences carefully since first and second choices may not make an offer. Selections are made throughout the Fall and may occur as late as the beginning of the Spring semester. All students who have applied in the past have received offers from one of their selections.

The increased interest in clinical placements has occured for a variety of reasons. The clinical helps to broaden and integrate students' classroom study. Students can see law in action, assist in resolving legal problems and simultaneously test a possible area of future practice. Many clinical interns have reported that internships have significantly contributed to their permanent job search and have provided a fruitful topic of discussion at employment interviews. Despite the heavy workload, students have repeatedly raved about the ex*perience and benefits of the program.*

Students who have nt fared as well as they might have wanted in law school examinations should particularly consider clinicals. They build confidence. They provide legal experience for job hunting. Finally, numerous state and local court positions, administrative agency slots and public interest openings are not filled each semester and could provide a student with valuable skills training and resume building.

Students in the Clinical Placement Program are assigned to work with a practicing attorney for 12-15 hours a week starting January 7 to April 19 except for the Spring break during the week of March 18th. The student also attends a weekly seminar on lawyering skills at Fordham and earns two credits for the program on a pass-fail basis.

Students can select a clinical placement from a broad range of actual practice settings where students witness and assist in the lawyering process. While doing so, they experience the critical interplay of fact and law, refine anaytical abilities, study the practical legal skills applied to problem solving and witness the interpersonal dynamics of being an attorney. Placements in judicial chambers, government offices, criminal law settings, commercial areas and public interest offices are available.

The diversity and proximity of federal, state and local courts to Fordham provides a wealth of judicial clerk-intern opportunities. As clerk-interns, students research and draft proposed judicial decisions under supervision by judges and their staffs. Students gain insight into civil and criminal litigation and persuasive skills from the unique vantage point of the bench. The United States Attorney's Office, the New York State Attorney General's Office and the New York City Corporation Counsel's Office (Department of Law) each carry out their respective role of prosecution and defense of federal, state and municipal affairs within a short distance from Fordham. In addition, the Port Authority's Counsel Office is close by. These internships provide exposure to the corporate legal affairs and litigation matters of government entities and the unique characteristics of practice as a government attorney. For those interested in criminal justice and litigation in either prosecutorial or defense functions, placements are provided at the U.S. Attorney's Office, Criminal Division, Federal Legal Defender's Appellate Unit, U.S. Department of Justice Organized Crime Task Force, public defender and local District Attorney's Offices. A number of internships are available in settings dealing with corporate or business community legal issues. While some are in governmental agencies, others are in judicial quasi-public or business settings. Administrative agencies afford a concentrated dose of a particular substantive area and demonstrate the constraints and broad discretion vested in agency lawyers. Familiarity with the regulatory process and its function within a statutory scheme provide solid background for practice in diverse areas of law.

Public interest settings emphasize litigation and afford heavy individual client contact as well as research and writing skills.

If you have any questions, need help in selecting appropriate placements or need additional information, see Professor Harris in Room 145, ext. 621.

MEET THE REPUBLICAN LAW STUDENTS ASSOCIATION

By William A. DiConza

This past September 13th marked the opening session of this year's Republican Law Students Association. Although the turnout was fantastic, it was not unexpected. This year's organization will be experiencing one of the most politically exciting periods in our nation's history. I was most impressed by the energetic response of the number of 1st year students who attended, for they are the RLSA's lifeline into the future here at Fordham.

As Chairman of the RLSA, I congradulate those members of the Law School's administration who were able to contadct Supreme Court Justice O'Connor and invite her to attend the dedication ceremonies in October. Her attendance demonstrates just how much our country has changed since the time twenty-five years ago when the Honorable Earl Warren took part in the dedication of the Lincoln Center building.

To be a Republican and to attend Fordham during this current period when both our school and our nation are celebrating a growth and prominence only dreamed of is truly a special thing in which we can all be proud to share.

I invite all those students, day and evening, who wish to join our Association to attend our second meeting to be held in early October. This year will not only be filled with the excitement of re-electing our President, but the RLSA will continue to create a social atmosphere through which our members may find some relief from the daily pressures of law school, to continue to be an integrated club within the law school community, to continue to develop contact with local alumni attorneys and benefactors, to work with the State Association's Placement Committee in helping our members find employment, and to bring those speakers and issues to the Fordham community that stimulate both political and legal awarness.

Membership in the RLSA if free until November and more information may be obtained from the S.B.A. office. Join us now and become part of our national political process.

FITNESS AT FORDHAM

By Robert Altman

If you want to have an extra edge when studying, you should try exercise. Exercise gives you endurance when studying and makes the long nights possible (trust me it's better than coffee). Four health facilities are reviewed in this article, but before I get to them I would like to mention one facility which is free - Fordham. Fordham has locker rooms and Central Park is a great place to jog. Additionally, Nancy Klistner from the Westside Y.M.C.A. teaches a great aerobics class on Tuesdays and Thursdays from 3-4 p.m. Having participated in it al last year, I found her class as exhilarating as a four mile run. Of course Fordham has its limits (no gymnasium and Central Park isn't always usable, especially when it rains); therefore for your perusal here are four health facilities within walking distance of school.

PARC SWIM & HEALTH CLUB: 363 W. 56th St., JU 6-3675; $575/yr.; open 24 hours except Sat. night, Sun. 6-9 a.m., 6-10:30 p.m.

Facilities: 60′×20′ pool. Nautilus (4 machines), Universal gym, steambath, sauna, Free Weights (spotter available).

Extras: Permanent Lockers ($12/mo., $70/yr.), Swimming Lessons ($185 for 10 lessons), Suntanning Equipment ($8/30 min.).

Classes: Yoga, Exercise, Aerobic Dance, Body Tuning and a Swim Clinic.

Comments: Basically an incomplete Y.M.C.A. Fairly clean, though the men's locker room could use renovating. If you are into midnight exercise this is your place. For a limited time you can joi for $489 (that's until they meet a quota).

WESTSIDE Y.M.C.A.: 5 W. 63rd St.: 787-4400; $182 for the school year (see Dean Young, Rm. 103); open M-F 7 a.m.-9:30 p.m., Sat. 8 a.m.-8 p.m., Sun 9 a.m.-12:30 p.m.

Facilities: Everything (hey, it's a Y, I can't list it all). Of special note: 2 swimming pools (75′×20′ and 20′×20′), Free Weights (spotter available) and a basketball court.

Classes: You name it they have it (hey, it's a Y).

Extras: Thousands (hey, it's a Y).

Comments: A typical busy Y. The Y's strength is that it's close, complete and cheap. It's fairly clean in most spots, though because it's old there are a few crusty areas (especially when you walk in - giving an incorrect impression). The athletic equipment is fairly new and in good supply. For the price it can't be beat.

NEW YORK HEALTH & RACQUET CLUB: 110 W. 56th St.; 541-7200; $490 (plus a $200 initiation); open M-F 7 a.m.-10 p.m., Weekends 7 a.m.-6 p.m.

Facilities: 50′×20′ pool, steamroom, sauna, recquetball (squash and tennis available at other facilities which members can visit whenever they like), indoor track, a huge Nautilus room (but no Universal gym or free weights). Health Bar, Equipment Store.

Extras: Permanent Locker ($75 or $55/yr. depending on the size), towel rental (50¢).

Classes: Yoga, Calisthenics, Aerobics, Karate, Tap Dancing (you read correctly all you Bojangles), Dance Exercise, Ballet.

Comments: If cleanliness is next to Godliness then the N.Y.H. & R.C. Is heaven. The place is spotless, well run and fairly complete. The atmosphere they try to develop in their literature is a health club plus a social atmosphere. There are some things it doesn't have that the Y does (i.e. a basketball court), but overall it is striking. It's only fault - it's a 10-15 minute walk from school.

LINCOLN SQUASH CLUB: One Harkness Plaza (62nd Street between Columbus and Broadway); open M-F 7 a.m.-11 p.m., Weekends 8 a.m.-11 p.m.

Facilities: Squash Courts, Sauna, Nautilus, Health Bar.

Extras: Permanent Locker ($100/yr., $60/6mos.)

Classes: Squash lessons ($25/hr. ^{5} Court time)

Rates: Squash only $250, Squash and Nautilus $500, Nautilus only $400, Student rate for Squash only $50 ^{5} Court time at $10/hr.

Comments: Very convenient - a one minute walk from the school. Very limited - only Nautilus and Squash. Very Clean. If you're *really into squash it may be the place for you* since it has squash pairings and leagues. The place is being sold so all rates are subject to change in about one month.

ENTERTAINMENT AND SPORTS LAW COUNCIL

By Elizabeth Hermida

The Entertainment and Sports Law Council held its first meeting of the 1984-85 year on September 12th at 5 P.M., in the Law School. Brian Murphy, President of the Council, outlined the program planned for this year to an overflow crowd of more than sixty people.

Depending on the budget allocated to the Council the following projects are planned: **1.** Speakers and/or panels on areas of sports and entertainment law of interest to law students; **2.** Publication of articles on cases and issues pertaining to entertainment and sports law in the Advocate; **3.** Possible publication of scholarly articles in a journal of another law school; **4.** Participation in a Moot Court at Cardozo School of Law; **5.** Promotion of clinical seminars; and **6.** Inclusion of a sports law course in the Fordham curriculum.

Last year the Council sponsorred two highly successful panels. The highlight of the year was the appearance of John Madden, sports commentator and former football coach, along with Charles "Chuck" Sullivan, owner of the New England Patriots and promoter of the Jackson's blockbuster Victory Tour. Their appearance on a panel discussing representation of sports figures generated an enthusiastic turnout that filled Pope Auditorium. Even though its scheduling close to the end of the year resulted in a smaller turnout, the appearance of Clive Davis, attorney, music publishing entrepeneur, and representative of the Thompson Twins, on a panel discussing opportunities for attorneys in the music world, was no less exciting. In keeping with this record the Council is planning present two more panels. One of them, will probably focus on theatre and cinema.

Also last year, the Council published a supplement to the Advocate containing articles on entertainment and sports law issues. This year, there will also be articles published. However, the format for publication has not been decided. Depending on student response, a supplement will be published or monthly articles will appear. In addition, Heidi Young is aware of a scholarly journal in this area of the law which is published at New York Law School and she has been making efforts to have an article by Fordham students included in that journal.

A new possibility for this year is participation by Fordham law students in the Cardozo Second Annual Entertainment/Communications Moot Court Competition to be held on March 28-31, 1985. The information available to the Council indicates that the problem will be distributed on November 21, 1984 and the brief will be due on March 1, 1985. The Council hopes to sponsor at least one team. Apparently the response to the competition held in 1983 was encouraging, with participation by New York University and Rutgers/Newmark.

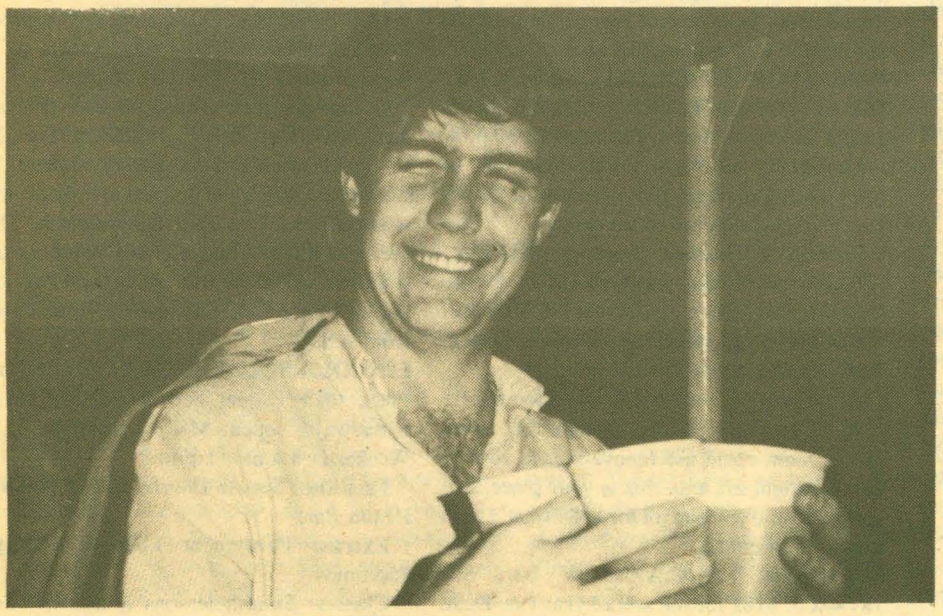
The Council will continue its policy of announcing clinical seminars in the entertainment and sports law field, and of sponsoring student attendance at seminars wherever possible.

The Council has been continuing its efforts to have a Sports Law course instituted at Fordham and Brian Murphy will be meeting with the faculty to discuss that eventuality as soon as possible. Although no definite plans have yet been announced for the new course, meetings with the faculty have been encouraging.

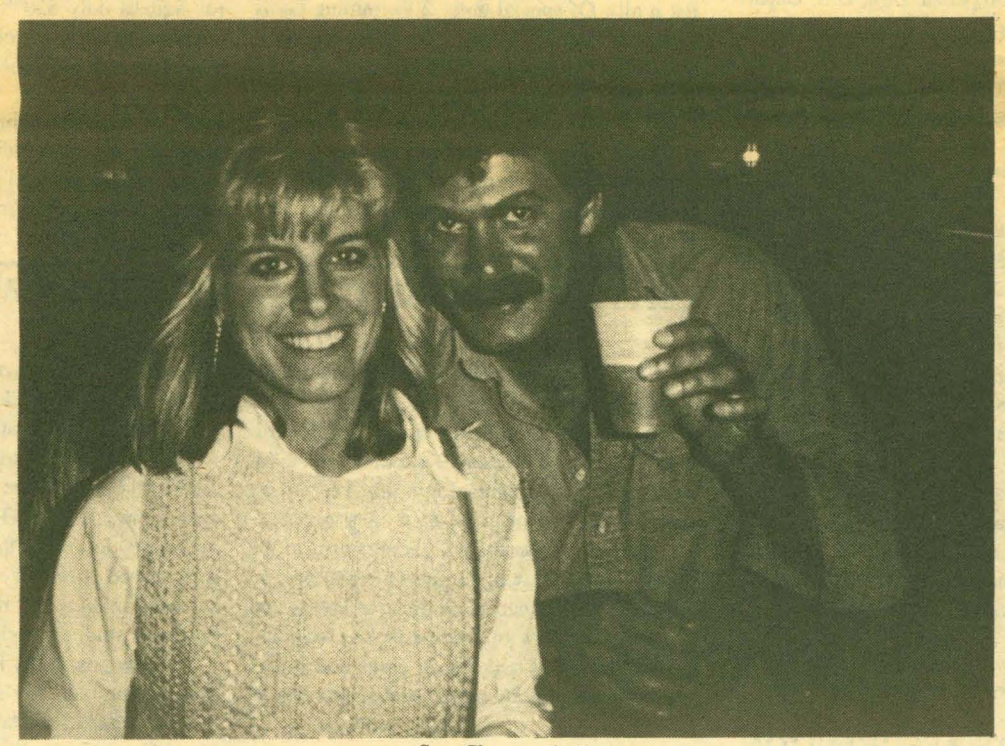
The first meeting had an enthusiastic atmosphere, and several new members stepped forward afterwards with offers of assistance. This strong student interest and support for the activities of the Council bodes well for the coming program. Those of you who are still interested in joining are welcome.

FLS NEWS IN REVIEW

BOATEUS RIDEUM: A LAW SCHOOL TRADITION



Three Fisted Drinker



Say Cheese, Gail

On Friday, September 21, 1984, studen
school set sail on the S.S. Circle Line for fo
viewing New York's majestic skyline, disco
sumption courtesy of the SBA. Carol Ann
pleased with the sell out crowd and felt that th
agreed that they had a great time on the S

Students held true to their colors and li
tion. That's right, folks, we are talking abou
in certain circles as the "booze cruise." But
the event remains the same. Law students, b
commingle and exercise their inalienable
in the Boateus Rideum legacy was certainly
event's history.

Whether it be dancing with that certain
special someone who was not supposed to s
fact remained that the tradition was being
archives.

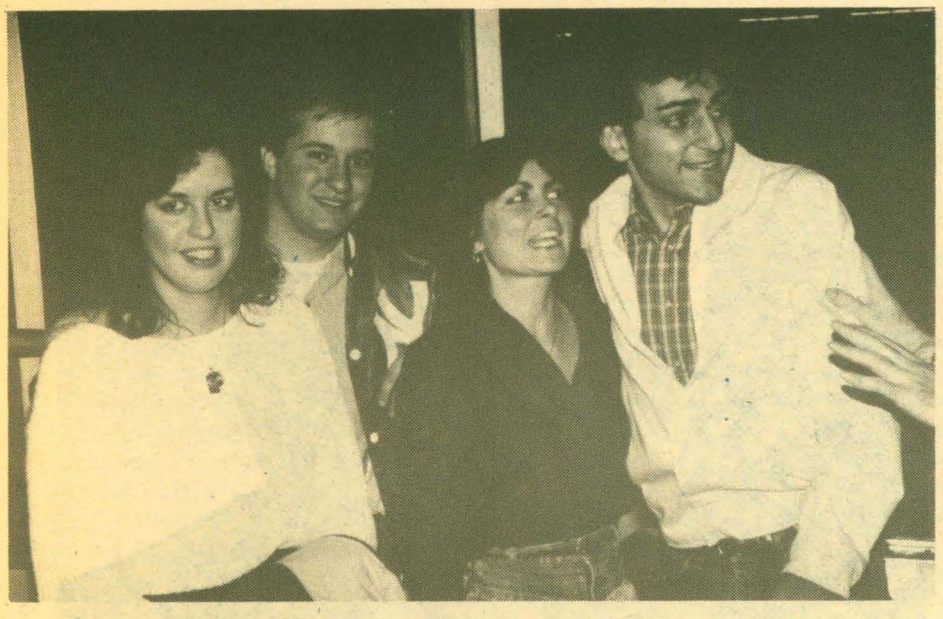
Students, rocking and rolling on the seas
tedious law school responsibilities and felt
background, you still could hear the echoes of
briefs and never ending first year assignme
will be law students no matter where you p

On a more serious note. It also became ob
come some of the impersonal attitude that exi
let's start some new traditions and hopefull
and far between.

A Kiss Is Just A Kiss....

FLS NEWS IN REVIEW

BOATEUS RIDEUM: A LAW SCHOOL TRADITION

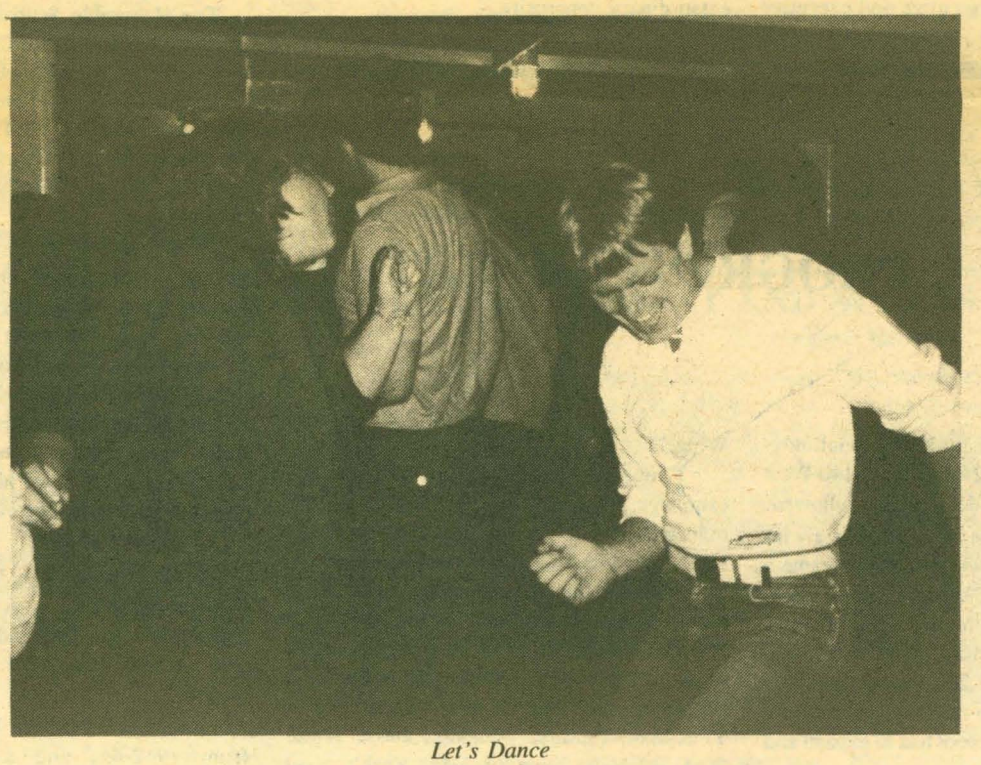


Hey Dave, Nice Face

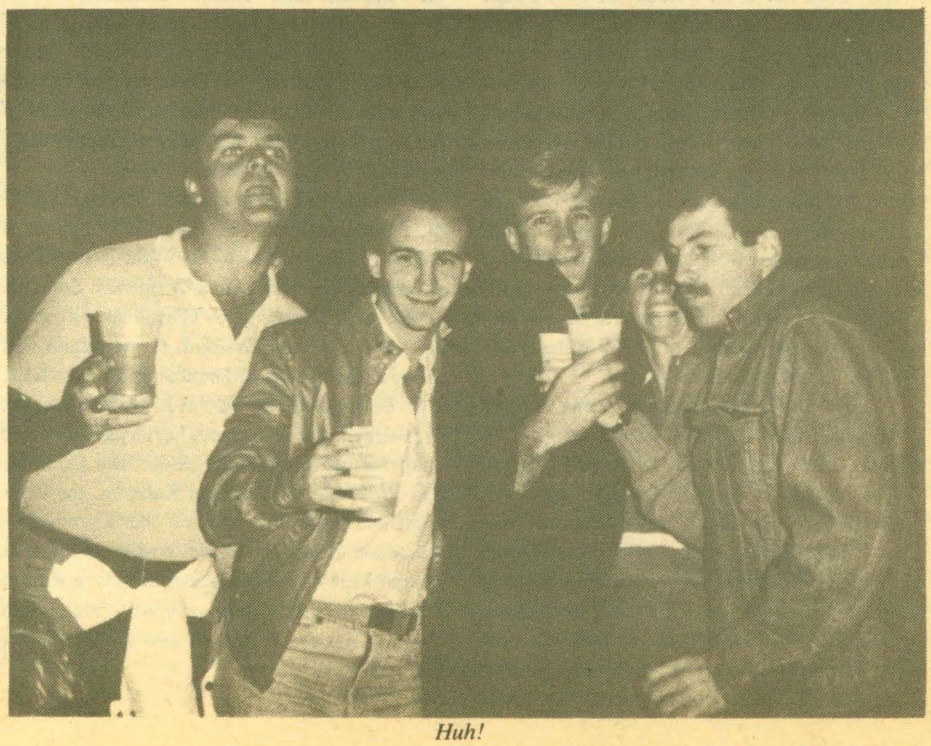
ts, alumni, faculty and friends of the law
r what was to be an enjoyable evening of
dancing and beer, wine and hot dog con-
Connors, President of the SBA, was quite
event was a success. When asked, students
BA sponsored event.
ved out the scenario of an on-going tradi-
the same thing, *Boateus Rideum, known*
no matter what you call it, the theme of
oth present and past, set out to assemble,
right to have fun. The 1984 chapter
not an exception to the general rule of the

pecial someone, or avoiding that less than
now, or slugging down another brew, the
ived out and recorded in the law school's

of New York harbor seemed to forget their
free for at least one night. But in the
interviewing failures, pending Moot Court
nts. It just goes to show that law students
ut them.
vious that this type of event seems to over-
s in a commuter law school. So Carol Ann,
, in time, such events will not be so few



Let's Dance



Huh!

FLS NEWS IN REVIEW

DOYLE ESTABLISHES $2 MILLION TRUST FOR FORDHAM LAW SCHOOL

By Mark S. Kosak

James Edwin (Ned) Doyle, advertising pioneer, one of the founders of the Doyle Dane Bernbach agency and eternal friend of Fordham University, recently set up a $2 million trust for Fordham Law School. This truly exemplary donation will represent the culmination of the Law School's three-year $7.8 million capital campaign. The twelve year trust will generate at least $200,000 a year in revenue upon Mr. Doyle's death.

Dean John D. Feerick, commenting on Ned Doyle's contribution, stated, "This is the culmination of an unprecedented period of generiosity by the alumni and friends of the Law School." Feerick went on to say "Together they have made possible the expansion of our facilities--an expansion which addresses every physical need we have had in the past years and which will enable us to offer greater services to our students and faculty."

Ned Doyle, thus far, has had a full life to say the very least. Ned, born in New York City in 1902, began his prestigious advertising career after two years of study at Hamilton College. While pursuing his LL.B. at Fordham Law School, Ned worked as an advertising salesman at several New York magazines and after graduation became the advertising manager at *Cosmopolitan*. Later between the years of 1937 to 1942 he was the advertising manager of *Look* magazine and from 1942 to 1949 was an account executive and executive vice president of the Grey advertising agency. In 1949 Ned began his very successful affilation with his noteworthy associates William Bernbach and Maxwell Dane and formed Doyle Dane Bernbach Inc. where he served as chairman of the executive board. Currently Ned serves as a member of the agency's board of directors.

Upon Doyle's retirement as chairman in 1969, the *New York Times* in an article reviewing his career revered him as "Probably the best account man whoever lived." Doyle a "super salesman" at heart was able to combine his unique talent with the creative flair of Bernbach and the marketing expertise of Dane to produce one of the most profitable and popular advertising agencies in the world.

Fordham University President Father O'Hare, reflecting on Doyle's prominence as an advertising pioneer and his sincere benevolence, noted, "Ned Doyle has been referred to by members of the legal profession as ' one that got away.' Nevertheless, he has brought great honor to the University and his school as a giant of the advertising world, and the shaper of New York's most important industries. One can only speculate, but I think he would have been a great lawyer, given his keen, analytical mind, and the passion with which he advocates a point of view. Both Fordham and I thank him for his extaordinary generosity."

LAW SCHOOL PROGRESS REPORT

Back in 1961 Fordham Law School moved its 600 students and 26 faculty to 140 West 62nd Street. In the two decades that followed, Fordham Law School became a major law institution. With this growth in prestige came a flood of applicants. The Lincoln Center facility was designed to accomodate a maximum of 750 students and 30 faculty. In 1981 the Law School enrollment was 1,200 students and over 100 faculty! In order to maintain its tradition of excellence the Law School had to expand and renovate.

Fortunately, plans for expansion had already been made. In October of 1980 Judge Joseph M. McLoughlin, then Dean of the Law School, announced plans to raise at least 5 million for a new building. However, the real force behind Fordham Law's expansion has been our own Dean John D. Feerick. Dean Feerick served on the original fundraising committee and has worked tirelessly ever since. In addition to running the Law School Dean Feerick has raised well over 7 million dollars. Without Dean Feerick, then, classes would remain overcrowded, faculty would be without offices, and the quality of the Fordham experience could only deteriorate.

Dean Feerick was not the only one to come to Fordham Law's rescue. Generous gifts by three distinguished alumni also helped save the day. Recently, a 2 million dollar trust was established for the Law School by James Edwin (Ned) Doyle. Mr. Doyle received his LL.B. from Fordham in 1930 and went on to found the Doyle Dane Bernbach advertising agency. The trust will provide $200.000. a year for 12 years following Mr. Doyle's death. The new building will be called "The Ned Doyle Wing."

Prior to Mr. Doyle's gift, the expansion campaign received a bequest in the sum of 2 million dollars from the estate of Leo T. Kissam ('23). Mr. Kissam was a long-time director of the Fordham Law Alumni Association and a senior partner in the New York Law firm of Kissam, Halpin & Genovese. In appreciation of Mr. Kissam's gift -- the largest in Fordham history, the law library will be called "The Leo T. Kissam Library." Finally, Judge James B.M. McNally, one of New York's most distinguished jurists and the first president of the Fordham Law Alumni Association, made Fordham Law School the beneficiary of a remainder trust valued at $1,000,000. Judge McNally graduated from Fordham Law in 1920 and went on to serve in the first department of the Appellate Division. The new amphitheater will bear Judge McNally's name.

Thanks to these and other generous alumni, the expansion of Fordham Law School is a reality. On October 24, 1984 the doors of the new building will be officially opened. Supreme Court Justice Sandra Day O'Conner will speak and the Honorable William H. Mulligan will serve as the Master of Dedication Ceremonies. Also on hand will be Daniel J. McNamara, the President of the Insurances Services Office and chairman of the Faculty Dedication Committee; Professor Constantine Katsoris, the vice-chairman, and the rest of the Committee: Associate Dean Joshph R. Crowley, Professor Joseph M. Perillo, and Assistant Dean Robert J.Reilly. Be sure to support your school and to congratulate Dean Feerick and his staff for a job well done!

The Hon. Wilfred Feinberg To Deliver Sonnett Lecture

By Mark S. Kosak

Photo Credit: Arnold Newman

Chief Judge Wilfred Feinberg

The Honorable Wilfred Feinberg, Chief Judge of the United States Court of Appeals for the Second Circuit, will deliver the Fourteenth Annual John F. Sonnett memorial Lecture on Tuesday, October 23, 1984 at 8:00 P.M. in the Pope Auditorium. The lecture series is being presented by the Fordham Law Alumni Association.

The Sonnett Lecture is one of the most prestigious and significant events of the year. Although the precise topic has yet to be decided, Dean Reilly stated that it will be one which is thought provoking and of current concern to the legal profession as a whole. Dean Feerick, commenting on the significance of the Lecture Series, noted that given Judge Feinberg's eloquence as an orator and his brillant analytical ability on the bench, the event should prove to be a very rewarding.

Judge Feinberg's credentials are quite impressive. He received an A.B. degree from Columbia College in 1940 and an LL.B. degree in 1946 when he was Editor in Chief of the law review.

After service in the United States Army from 1942-45, and a term as Deputy Superintendent of the New York State Banking Department in 1958, Judge Feinberg began his legal career as a judge of the United States District Court for the Southern District of New York from October 16, 1961 to March 17, 1966. Later he was a member of the Advisory Committee on Civil Rules of the Judicial Conference from 1965-70, a member of the Subcommittee on Supporting Personnel, Committee on Court Administration, from 1971-76. In addition, he was a member of a task force concerned with updating the ABA Standards Relating to the Administration of Criminal Justice and a member of the Federal Judicial Center Advisory Committee on Experimentation in the Law.

Judge Feinberg has also been involved in various legal fraternal organizations serving as the President of the Columbia Law School Alumni Association from 1974-76. In addition, he is a member of the New York City Bar Association, American Bar Association, New York County Lawyers Association, American Judicature Society and the American Law Institue. Judge Feinberg was also a member of the Advisory Council for Appellate Justice.

The Law School on this Fourteenth Anniversary of the Sonnett Lecture Series must not, however, lose sight of the ideals which John F. Sonnett stood for. *John F. Sonnett*, (1912-1969) a graduate of Fordham College and a 1936 graduate of the Law School was a senior partner of the firm of Cahill Gordon & Reindel. The lecture series has been endowed by his partners and friends as a permanent memorial to him.

In 1933 Mr. Sonnett joined that firm, then known as Cotton & Franklin, as managing clerk to support himself during law school. Upon graduation he became an associate at the firm. In 1941 he joined the U.S. Attorney's Office for the Southern Discrict of New York where he became Chief Assistant U.S. Attorney.

During the Second World War, Mr. Sonnett was Special Counsel to the Under Secretary of the Navy. Latter, as Special Assistant to the Secretary of the Navy, holding the rank of Lieutenant Commander, he conducted the final Navy investigations of the attack on Pearl Harbor.

At the conclusion of the war, Mr. Sonnett was named Assistant Attorney General and Chief of the Antitrust Division of the United States Department of Justice.

He returned to the Cahill Gordon firm in 1948 and established an international reputation as one of the pre-eminent trial and appellate lawyers. A devoted son of Fordham, his death in 1969 was a great loss to the profession and his alma mater.

Previous John F. Sonnett Memorial Lectures were conducted by the following elite group of individuals:

Hon. Tom Clark
Hon. Cearball O'Dalaigh
Hon. Irving R. Kaufman
Hon. Warren E. Burger
Rt. Hon. Lord John Widgery
Hon. Robert J. Sheran
Hon. Leon Jaworski
Hon. Griffin B. Bell
Hon. William Hughes Mulligan
Hon. Benjamin R. Civiletti
Hon. Lawrence H. Cooke
Rt. Hon. Sir Robert E. Megarry
Hon. William T. Coleman

A Student's Perspective
Tax Reform Act '84

By Glenn Busch

As we reported in our last issue, the Deficit Reduction Act is massive. The principal purpose of this new law is to help reduce the deficit. The law attempts to accomplish this not by general tax increases, but by over 200 specialized provisions. Among other things, the new law attempts to restrict a variety of opportunities to reduce taxes through tax shelter investments and other tax motivated transactions. In this issue we will explore the Act's provisions affecting real estate.

DEPRECIATION LENGTHENED.....

Before the Deficit Reduction Act of 1984, real property placed in service after 1980 had a 15-year ACRS recovery period. To cut back on the use of sheltering techniques, the new law extends the ACRS writeoff period for buildings, other than low-income housing, that previously qualified for 15-year writeoffs. Such property is now "18 year property" and must be written off over 18 years.

The new provision is generally effective for property placed in service before 1987 if the taxpayer or a qualified person entered into a binding contract to buy or construct the property before March 16, 1984, or construction of the property by or for either the taxpayer or qualified persons, if it was commenced before that date.

CONSTRUCTION PERIOD INTEREST AND TAXES.....

As a general rule, no deduction was allowed for real property construction period interest and taxes--they're usually amortized over a 10-year period. Prior law excepted residential real property from this rule. The new law removes the residential (other than low income housing) exception for construction period interest and taxes incurred by corporations (other than S corporations, personal holding companies and foreign personal holding companies). These expenses must be capitalized and amortized over at least a 10-year period.

WITHHOLDING ON SALES OF U.S REAL PROPERTY BY FOREIGNERS.....

Under the 1980 Foreign Investment in Real Property Tax Act (FIRPTA), a foreign person who disposes of U.S. real property interests is taxed on the gain realized on the disposition. Prior law provided for enforcement through a system of information reporting. The new law replaces the information with a withholding system. The new law will generally requires withholding when a foreign person disposes of real property on or before January 1, 1985. In most cases, the amount of the withholding is the lesser of 10% of the selling price or the transferor's maximum tax liability:

OTHER PROVISIONS.....

The new law also provides for:

* a three-year extension of the rules allowing 60-month amortization of certain rehabilitation expenditures on low income housing; and

* a requirement that the expenses of demolishing any structure be capitalized as land costs (even though that structure was not purchased with a view of demolition ; this requirement formerly applied only to certified historic structures).

In the next issue we will explore the area of tax reform. It is widely said that the complexities of the tax code make April a nightmare for millions of taxpayers. Most feel that the system is unfair, that equal incomes don't pay equal taxes, that the rates are much too high--that it is extremely complex. Some say the country is ripe for fundamental reform, while others say The Code, althought complex, the code has worked for years and will continue to work. Is a value added tax the answer? Would the Bradley-Gephardt plan work, or are we better off with the Kemp-Kasten proposal?

STATE OF THE ARTS

"THE BOSTONIANS"

By Eileen Rose Pollock

"The Bostonians," currently playing at the Cinema II at 60th and 3rd, is a straightforward, serious retelling of the novel by Henry James. Although its story is one modern audiences seemingly might not identify with, the plot has not been trivialized or sensationaized to appeal to what might be called current tastes.

Simply, it is a not-so-classic triangle, set in 1870's Boston - the story of a man and a woman both vying for the love of a girl. Olive is a rigid, middle-aged spinster and one of a group of similarly unprepossessing Boston feminists. She discovers in Verena, a young, vibrant girl with a talent for public speaking, both a protege to be molded to serve the cause of women's rights, and a human subject for all of Olive's repressed passion. Impressed with Verena's speaking ability and sincere commitment to women's rights, she persuades Verena to live with her, and, taking the girl under her wing, tutors her, and urges her, indeed, cajoles her, to remain true to their cause and never marry. Verena genuinely returns Olive's love and devotion, but she is slowly being pulled away by Olive's cousin, Basil Ransom, a lawyer from Mississippi, and a man who represents all that Olive has repressed. Moreover, he is an open, unabashed male chauvinist (as he would be called 100 years later). Despite Olive's attempts to influence Verena and keep her for herself, and in the face of Verena's own ambivalence, Ransom little by little insinuates himself with Verena, intent on prying her away from both her unnatural life with Olive, and her commitment to the suffragette cause.

Vanessa Redgrave is ragal as Olive, and in this role she is a study in contradictions: rigid and angular, haughty and cold in her disdain for Ransom, yet tender and melting in her love for Verena. She is a remarkable actress, with her long, graceful movements and perfect carriage, the mobile face and alert, steely blue eyes, all reflecting Olive's strength of character. Her limpid, mellow voice has wide range and power, even in the softest whisper.

Christopher Reeve, with a mustache and a Southern drawl, is surprisingly effective as Ransom, although he may forever be better known as Superman. He musters the necessary hardness of purpose to do battle with Olive, and his love scenes with Verena are touching and beautifully played. But one wishes for, perhaps, a bit more masculine energy and brio.

Verena herself is the hardest character to understand, and the performance of an unknown, Madeleine Potter, although ebullient, hardly clarifies the mystery. Miss Potter's Verena displays a headful of cascading red curls, flawless white skin, and yourhful high spirits. But she lacks any of the compelling qualities of personality that would cause the suffragists, and particularly a woman of Olive's piercing intelligence, to sit up and take notice. And one does not feel she is beautiful enough, nor can she convince us she has the inner spark, to capture more than the passing notice of a Basil Ransom. Verena is supposedly a talented public speaker with the power to stir a crowd. But Miss Potter lacks fire, spirit, or passion. Her voice is a little girl warble, her mouth earnestly pursed and her eyes round as a child's. It is hard to know what both Olive and Basil see in her.

At one point Basil observes to Verena that he thinks she doesn't really believe what she is espousing; but that it is only her "sweet nature" that makes her cooperate with, first her father (a faith healer who is involved with the suffragists), then with Olive and her group. So the film's Verena appears to be a woman who is ultimately malleable in the hands of a stronger will. Between two opposing forces, she will go to the one who reaches her last. Thus the film makes no concession to our modern dogma of the invincible liberated female.

The cast is uncommonly distinguished. Secondary roles are excellently played by Jessica Tandy and Nancy Marchand. And one must single out the remarkable character actress, Linda Hunt, seen briefly as a woman doctor. She is tiny and unbeautiful, but with her penetrating, sandpapery voice and biting, intelligent delivery, she stands out as a talent.

The costumes and sets are lovely, recreating the 1870's down to the last detail. The rooms are filled with knick-knacks and the interiors bathed in a sepia light. The exteriors of the period are dealt with mainly by using natural settings - the beach at Cape Code and a glen in Central Park.

Although the story in some ways seemed to fall rather flat for me, "The Bostonians" is notable for several lovely performances and for its aura of authenticity to the times it depicts. It is a film that is definitely interesting and well worth seeing; a quality product in every way.

COMMENTARY

REPUBLICANS CHALLENGE...

By William A. DiConza

This past week, as Chairman of the Republican Law Students Association and an ardent supporter of the President, I challenged the Democratic Law Students to a "surrogate" debate whereby a student from each political party would represent his candidate and answer questions on the issues. After some initial hesitation and charges of "too boring" and "no one wants to hear students debate," the Democrats decided to accept the challenge and will meet with the Republicans in the Moot Court Room in the weeks ahead.

I commened my fellow student's decision to go before our peers and openly discuss the most crucial isues of our time. In years gone by, instead of meeting in a nice wood panelled room we would have stood outside and burned draft cards and flags. However, those days are behind us. We no longer show our disagreement with one another through physical violence and display; rather, ours is the generation of mature, intellectural competition.

There are many reasons for this "shift" in how America demonstrates its lack of conformity. The most plausible cause of our turning to mental debate rather than physical display has to due with our coming of age as a nation. The sixties and early seventies were the adolescent years of America. We were not quite sure where we had been, after years of civil rights clashes and assinations of our leaders, and we were less sure of where we were headed. However, we look across our country today and we see a different America. We see an America that is at peace with both itself and the world in which we lead the cause of freedom. We see a revitalization of not only our community and neighborhood, but of our basic moral fiber and our desire to help one another. There is no denying that we, as a nation of hard working, genuinley good people, have finally realized that what we have in this country is truly unique. We have the opportunity to attempt to do whatever it is we decide needs doing. Ours is a nation of freedom to experiment with all that life has to offer, and whether we succeed or fail is up to each one of us.

What does all this have to do with Ronald Reagan and Walter Mondale? Everything. This years election affords us the opportunity to choose between two very different plans for America's future. Both plans have been played before the people in the past, so we make our decision with full knowledge of what we will get when we pull the lever on November 6th.

I am pround to have attended a school from which the Democratic Vice Presidential candidate graduated and I congradulate Ms. Ferraro. That said, let us get to the real issues of 1984... the issues of competance to lead, of desire to grow, and of the celebration of the basic human rights and freedoms we have all come to call "America."

Why do I feel better about our nation than I did four years ago? Why do I not believe that Fritz Mondale offers a positive future for our country? First, quite simply, is Mondale himself. The man is a dud. Now this may sound petty and many may say that that has nothing to do with the ability to be President. I say it has everything to do with the ability to lead and to allow our allies and adversaries to know that ours is a strong country with solid leaders who do not whine when they speak. The lack of conviction in his own cause has created an air of weakness around Walter Mondale. Tip O'Neill and Mario Coumo are quick to tell Mondale that he does not come across well, that he does not get his message to the people like he should.

I disagree with O'Neill and Cuomo. The Mondale/Ferraro message comes across loud and clear. It is a message from the past, from those days when it was our fault that there was a national "malaise," when we were responsible for the anti-American sentiment which sought to ruin our Republic. Well, we did not buy it then, and we do not buy it today.

If we look back over the last four years, we see one of the most remarkable periods of national recovery in America's long history. And if we ask why, the answer is clear: leadership that had a sense of direction, the courage of its convictions, a sense of priorities, and the strength to lead. "It was not a malaise we suffered from," as lifelong Democrat Jean Kirkpatrick said, "It was Jimmy Carter and Walter Mondale."

Under President Reagan inflation, interest rates, unemployment and taxes have fallen. Our economy is now sound and able to sustain continued growth into the future. Of the six million new jobs created under the Reagan Administration, over half went to women.

The Democrats continue to harp on the "fairness" issue. What was so fair about an inflation rate that hit 17% on food, housing, energy and medical care--the necessities on which the poor and the elderly spend most of their income? What was so fair about 21% interest rates, which made it impossible for young people to buy homes and for small businessman to keep their heads above water? The only thing fair about the Carter/Mondale policies was that they made everyone miserable!

As for America's defense, the Soviet Union has not attempted to gain one square inch of "free" soil since Ronald Reagan took office. The President saw to it that the Carter Administration decision to deploy the Pershing and Cruise missiles in Western Europe was carried out. Under the President, Grenada was saved from communist tyranny and a hostage situation averted, El Salvador was kept from falling to leftist guerillas, and pressure has been put on Nicaragua to leave its neighbors alone. its neighbord alone.

America is now strong and ready for a "real and constructive" dialogue with the Soviets over the issue of arms control, if only they would return to the negotiation table. Walter Mondale calls the President's meeting Andrei Gromyko a failure because no accords were reached. How consistently wrong Walter Mondale is. Fritz would have given them the store, gained election points and placed America right where it was when the Soviets saw fit to march into Afghanistan, Nicaragua, Grenada, South Yemen,, and Ethiopia. Ronald Reagan saw things differently. He did not believe the Soviets should be rewarded for walking out on arms talks. Sure the President could have gained points in the polls by caving in to Gromyko's wishes, but the issues are more important than that and the President is strong enough to realise that there is a time and place for everything and now is not the time for concessions. Ronald Reagan still continues to be the only President to propose a **reduction** to zero of the number of nuclear weapons in the world's arsenals, all prior agreements have simply limited the amount of **growth.** However, the Soviets walked out of the START talks.

What does all this mean? It means that America is strong once again. We are ready for peace. Our nation is at one with itself. Our morale is high. Our economy is booming. Our hungry are fed, our elderly, secure. Most of all Ronald Reagan has instilled in us the idea that we can truly achieve greatness, both on an individual and national scale.

When we look at the choice in 1984, we see that the decision is really quite fundamental. Walter Mondale's every political reflex is to promise more government, more regulation, more taxes, more rules, more standards and creteria and reports and compliance--because that is his political tradition. But that tradition got us into the mess that Ronald Reagan is now trying to end. I urge you, the reader, to become involved in this year's election. If you agree with the Mondale/Ferraro ideas, then get out and support them. If you agree with the Mondale/Bush approach, then see that you do all you can to ensure the President's re-election. In a very real sense, the future of our country and the world depends on who sits in the White House over the next four years.

Letters To The Editor

In the September issue of *THE ADVOCATE,* Professor van den Haag advanced an argument for elimination of exclusionary rules in criminal trials. I found his article troubling in its pragmatic approach to criminal justice procedure, and in what I believe to be his conceptural misapprehension of the function performed by exclusionary rules.

Essentially, Professor van den Haag would admit all evidence at trial, regardless of the severity of the Constitutional injury inflicted on the accused by the police. In his view, the function of a trial is to determine guilt or innocence; currently, too many guilty parties are obtaining verdicts of innocence, and more evidence will only help the process by producing a higher correlation between verdicts and reality. The trouble with that reasoning is that the state could ensure a perfect correlation by training a camera and tape reecorder on each citizen 24 hours a day.

The basic issue seems to be one of perception. The professor states that the exclusionary rules were invented by the judiciary to compel Constitutional behavior by the police, and apparently perceives no other virtue in their existence. I think this is an overly narrow view, and suggest they be viewed in a broader light: that exclusionary rules are but another manifestation of the concept upon which this nation, and this nation alone, was founded: the supremacy of the individual.

For whatever reason the exclusionary rules were enunciated, their chief function is not to discipline the police, but to assert the sovereign rights of the citizen over the state. Every time an exclusionary rule is invoked in response to a Constitutional violation, this nation reaffirms its commitment to the inalienability of individual rights.

The professor writes that, in his knowledge, no other country has resorted to the exclusion of evidence. But what other country shares America's concern for the individual? Are we to fashion our judicial procedures along the efficient lines of those countries where liberties are exercised at the pleasure of the sovereign?

Professor van den Haag contends that it would be sufficiently dissuasive to police misconduct to prosecute individual police for their offenses, while simultaneously admitting their heretofore tainted evidence. But police are not individual wrongdoers, and it is fatuous to equate their Constitutional intrusions with the misdeeds of pickpockets or arsonists. The plain truth is, in their professional capacities, police are agents of the state. It is the state whcih transgresses against sovereign rights in illegal searches and unconstitutional wiretappings, and all the police prosecutions in the world will not dissuade such behavior from a state which might come to value convictions over liberties.

It seems to me that many of those who argue for the views Professor van den Haag expresses forget that exclusionary rules are merely a **reaction** to an initial illegal **action.** If there had not first been Constitutional violations, there would not be exclusionary rules. And in any given trial, if Consti tional rights are not violated, exclusionary rules will not be invoked.

What really riks the professor, I suspect, is the apparent inability of our government to effectively deal with ri g crime. It's an absolutely legitimate comp nt, because maintaining civil order is a core function of the state, and its frustration in this task should be of concern to all Americans. Bu it is illogical to argue that we should enhance the state's ability to protect us from criminal invasions of our rights by relaxing our defenses against the state's invasions of our rights.

When we read of prisoners turned out on the streets because jails are too crowded, and hear D.A.'s frankly admit that without plea bargaining their staffs couldn't begin to handle the case volume that flows through their offices, it becomes apparent that a lot can be done to increase the effectiveness of law enforcement without employing a pragmatic quick-fix that has serious implications for the balance of power between the individual and the state.

(For purposes of identification, I am a second year evening student at Fordham Law School.)

L. David Kreps, Jr.
A Second Year Evening
Student at Fordham Law School.

The interesting arguments Professor van den Haag makes (in last month's *Advocate*) against the exclusionary rule rest on two critical assumptions which he briefly states, but offers no argument for: that the rule was "invented by the judiciary," and that its essential purpose is to discipline or deter police misconduct. Defenders of the exclusionary rule ought to stand firm against such basic assumptions, and refuse to be drawn into debate on such secondary questions as the empirical utility of the rule. On the latter score, for all I know, Professor van den Haag and other critics may very well be correct, and for present purposes I am quite willing to concede that they are.

Nowhere in Professor van den Haag's article is the Fourth Amendment cited or even referred to. Yet, the primary issue to be determined is whether the words of the Fourth Amendment do or do not mandate the exclusion of evidence seized in violation of the protections which it affords. If they do, then conformity to the Constitution is the only "purpose" of the exclusionary rule, and anything else, desirable or otherwise, is merely a by-product.

The Fourth Amendment guarantees the right to be secure against unreasonable searches and seizures, and requires the use of narrowly-drawn warrants supported by probable cause. Professor van den Haag's view, and that of a majority of the current Supreme Court as of the last day of its most recent term, is that the exclusionary rule is merely one possible means of (judicially) **effectuating** Fourth Amendment protections; but that it is not itself "part and parcel" of those constitutional protections, as a majority of the Supreme Court had held in **Mapp** in 1961.

I believe that the exclusion of illegally seized evidence **is** part and parcel of the Fourth Amendment. The Fourth Amendment is not a command which the state encounters only at the threshold of its action against an individual; it is a command that confronts the state and stays its hand throughout and at each stage of its prosecutorial effort. The people **shall be** secure in their persons, houses, papers and effects. The insecurity suffered by the victim of an illegal seizure is as great immediately after the seizure as during it. The holding and use of papers or effects illegally seized merely prolongs and aggravates the citizen's insecurity; it certainly doesn't reduce it. The **constant** command of the Fourth Amendment to the government is to **restore** to the citizen **at once** the security in his possessions of which he has been wrongfully deprived. This is a command that confronts the police, confronts the prosecutor, and confronts the trial judge. Disobedience of it by the police does not justify like disobedience by the judge. The defendant who moves that evidence seized illegally from him be "suppressed", asks no more than that the security which the Constitution guarantees him be restored forthwith. In granting the motion, the judge does not seek to undo past constitutional violations, but to terminate present ones. He seeks to **obey** the law, not "invent" it.

John G. Caulfield '87.

A Visit With Fordham University's New President

(Continued from page 1)

vert that endowment into revenue or facilities that would further the educational objectives of the school.

"Although it's a resource that is quite substantial, it's not inexhaustible. Therefore, there are competing interests. Should we have a residence primarily for the Lincoln Center College, or for the law school, or for both? Where do you draw the lines? Or, we could put up a theatre, for example.

"I think that housing at Lincoln Center has for some years been recognized as a need, and would rank very, very high on someone's list of priorities. But what we have not done yet is sit down and define our specifics. Do we want housing, for example, for married students, single students, or both? What about children? Our own thinking about what we have to do has to be defined, and then we have to see what our order of priorities is, and how much we can get when we turn to converting the land value into something more immediate for educational purposes."

Father O'Hare acknowledges that Lincoln Center housing for law students would greatly enhance the school's "national" image by attracting more out of state students. As a final note on the housing question, he mentioned the possibility of some sort of cooperation with the real estate developer who recently purchased the Power Memorial Site.

Regardless of the resolution of this issue, Father O'Hare re-emphasized his belief that the decision to develop the Lincoln Center campus was one of the "wisest decisions ever made."

On the Role of Lawyers

"If the index of the success of the school were to simply be the positions of the graduates - how prestigious are the law firms to which they are being accepted - than you'd have a tough time justifying the law school at all. I think a concern about the ethical and social dimension of the law has to be a very lively concern if the law school is to justify its relationship to the university. It's one thing to have a lot of rhetoric about what you are trying to do, and it's another thing to be operational...if behind the rhetoric one is only concerned about getting the best paying jobs one can get, then there is a gap between rhetoric and reality."

When asked about specific areas of the law with which lawyers might get involved, Father O'Hare cited poverty law as an example. He added that there are many ethical issues specific to the law which have to be dealt with, such as the limits of lawyer client confidentiality vis-a-vis the public good.

On the Jesuit Influence at the Law School

"The Jesuit influence at the law school is for the most part going to be sustained by people who aren't Jesuits....The important thing is the values that come out of the working assumption of a Jesuit education. What are those values? One of them is a kind of optimism about life and the validity of the secular disciplines including law. The other is a strong sense of a social and ethical dimension to what we do - what's right and what's wrong.

"A man like Dean Feerick, for example, is an exemplary man in every way - it would be very hard to find a better model for what Jesuit education hopes to achieve. There are others on the faculty who also have that spirit, who are sustaining the values of the Jesuit tradition."

On the Proper Relationship Between Church and State

Father O'Hare reiterated the view he expressed in *Time* Magazine last month, when he was requested to write a brief commentary on the proper mix of politics and religion. While he does not believe that no religious leader should ever criticize a particular law, he feels that religious leaders should generally not go beyond expressing their general values and sentiments, and should not criticize particular laws and political candidates from a religious standpoint.

Father O'Hare has a doctorate in Hegelian philosophy from Fordham (1968). He also holds licentiate degrees in philosophy and sacred theology from Woodstock College in Maryland, and studied Theology for two years at the Institute Catholique in Paris. In addition to the EXCEL program, he spent seven years teaching philosophy at Ateneo de Manila University in the Phillipines (he also received his B.A. and M.A. degrees in the Phillipines, at Berchmans College in Cebu City).

He is interested in returning to teaching in the two areas in which he has taught previously: ethics and philosophy of religion. In addition, he says that since his editorial experience at *America* and the current political campaign have heightened his concern about the proper relationship between religion and public policy, he is considering a course on this subject.

"I would like to put together a seminar in this area, where we would have some case studies as well as theoretical readings. Hopefully, we could focus on a clear understanding of the relationship between church and state, the proper role in a pluralistic society for religious groups and any political activities in which they might become involved, and dangers that might arise. I think a misunderstanding of that relationship, either theoretically or practically, leads to bad politics and bad religion."

We wish Father O'Hare the best of success for the time he will spend as Fordham's President. He will certainly have a lot of help from many other sources, including Fordham alumni. As the new President relates, Fordham Law alumni remain as always a very strong group, and Father Finlay in his term was able to heighten the interest of alumni from other schools in the university. Hopefully, Father O'Hare will be able to achieve three of his main goals: To keep the university faithful to the character of its origins, have Fordham provide the best possible forum for the education and enlightenment of its students, and to make its strengths more widely known, particularly in New York City and surrounding communities.

Katsoris To Receive Bene Merenti

(Continued from page 1)

tion and skill in handling the trial and appeal of an indigent defendant in a mass conspiracy trial.

On the homefront, Professor Katsoris has taught numerous courses as Dean Feerick put it with "(G)reat ability and distinction." His involvement in law school affairs has been extensive. He was a member of the University's Faculty Senate and is presently Director of the Fordham Law Alumni Association and Chairman of its Administration Committee.

Professor Katsoris, recognizing his obligation to the betterment of society at large has also had a great deal of pro bono involvement. Specifically, he has been a consultant to the New York Temporary Commission on Estate, a member of various bar associations and judicial screening committees, and even an arbitrator for the securities industry and for the State of New York. Because of his exemplary service to the securities industry, the National Association of Securities Dealers presented him with a Certificate of Appreciation for his "Contributions to the furtherance of self-regulation." In addition, he has been a Public member of the Securities Industry Conference on Arbitration, a group formed to draft and implement a viable Uniform Code of Arbitration designed to resolve differences between the public and the securities industry.

Professor Katsoris, as an advocate in such areas as Evidence, Torts, Accounting, Taxation and Estate Planning, has produced some very persuasive and often cited scholarly articles which have had a definite impact on shaping the law. To illustrate, his article which outlined criticisms concerning the imposition of a death tax on New York City residents, ultimately led to its repeal prior to it initial effective date.

It has been apparent from numerous discussions and personal experience that Professor Katsoris's first love is in the classroom. He seems to thrive on the intgeraction that takes place with the exchange of ideas with his students. In addition it has been said that he is willing to assit an individual not only while he or she is student at the law school, but long after graduation.

Professor Katsoris' talents have not gone unnoticed since he has recently been listed in Who's in American Law and will be included in the next edition of Who's in the World. Dean Feerick felt that this type of recognition does not primarily motivate him, instead "Gus' is motivated by a strong sense of love."

On behalf of the entire student body, *The Advocate* extends its warmest congratulations on this momentous occasion. Thank you Professor Katsoris for your twenty-five years of service.

Urban Law Clinic Established

(Continued from page 1)

By establishing this program, Fordham enters the ranks of those law schools which offer a full range of clinical courses for students to study lawyering skills including clinical field placements, simulation courses and actual student practice clinics.

The program will permit 6 to 8 students in the Fall, Spring or Summer semester to engate in strictly supervised practice on behalf of and under supervision of the New York City Department of Law in its code enforcement efforts. Students will enforce the City's Nuisance Abatement and Illegal Eviction Laws and statutes and regulations associated therewith by bringing affirmative civil injunctive and enforcement proceedings in New York State Supreme Court.

The clinic will offer an unprecedented opportunity for students to study the lawyering process, practice it and reflect upon its implementation. Students will engage in a full range of tasks including client and witness interviewing, case planning, counseling, factual investigation, negotiation, discovery, hearing and witness preparation, hearing execution and enforcement proceedings. While studying and using a broad range of substantive and procedural law, students will become familiar with the unique role of civil government counsel. Additionally, the exposure will require students to integrate the broader dimensions of lawyering including ethical considerations, doctrinal analysis, problem solving analysis and technical lawyering skills. Each student will ultimately gain transferable skills in dispute resolution and litigation that the student will find helpful in whatever field he or she enters.

The clinic will be housed at the office of the Corporation Counsel and a senior attorney will be assigned to supervise the students. He or she will retain ultimate case responsibility. Students will work 15 hours a week at the office and attend four hours of class weekly. The Corporation Counsel in conjunction with the Clinical Director will conduct a weekly class focusing on preparing students to process their cases. A weekly class will be held at the law school to study lawyering skills and cause students to reflect upon and generalize about lawyering functions from their actual case experienced.

The faculty has granted five credits for this course based upon the experience of other law schools and the degree of weekly work required by each student. Student's myriad functions would include study and simulation preparation, preparation mooting and performance of all case functions, research and writing including case and decision analysis, maintenance of actual case files and maintenance of a student work product file for law school classes. Additionally, preparation and participation in four hours of class a week will be required.

Carefully evaluation of the program will be made. Student participants will have a significant role in evaluating whether the clinic is achieving its multiple goals and providing intensive skills training.

Demand for the clinic will probably exceed available places. Therefore, preference will be granted to third and fourth year students who apply for the Urban Law Clinic. Students interested in applying for this clinic should pick up and Urban Law Clinic Memo and Clinical Application from in the Registrar's Office. The deadline for application is October 10th and interested students should consult with Prof. Cathy Harris, Room 145 before that date.

CALENDAR

Tuesday, October 2	at 8:00 p.m.	Faculty Party For 3E in The Pub
Wednesday, October 3	at 5:00 p.m.	FDLSA Meeting - Moot Court Room
Monday, October 8		Columbus Day - School Holiday
Tuesday, October 9	at 4:00 p.m.	Fordham Law Women - meeting - Room 211
Wednesday, October 10	at 5:00 p.m.	Faculty Party for 3A in the Faculty Lounge
Wednesday, October 10	at 5:00 p.m.	FDLSA presents Congressman James Scheuer
Wednesday, October 17	at 5:00 p.m.	Student-Faculty Committee - Room 107
Wednesday, October 17	at 6:00 p.m.	Law Review Reception in the Faculty Lounge
Tuesday, October 23	at 4:00 p.m.	Fordham Law Women - meeting - Room 211
Tuesday, October 23	at 8:00 p.m.	SONNETT LECTURE - Judge Feinberg - Pope Auditorium
Wednesday, October 24	at 10:00 a.m.	DEDICATION of the NEW WING of the LAW SCHOOL
Tuesday, October 30		Wormser Final - Moot Court Room
Wednesday, October 31		Wormser Semifinals